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SPEECHES

OF

HENRY LORD BROUGHAM,

UPON QUESTIONS RELATING TO

PUBLIC RIGHTS, DUTIES, AND INTERESTS;

WITH

HISTORICAL INTRODUCTIONS,

AND

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A CRITICAL DISSERTATION

UPON THE ELOQUENCE OF THE ANCIENTS.

IN FOUR VOLUMES.

VOL. IV.

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ERRATA.

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Page 9, line 8, *for* "enumerated" *read* "enunciated."
„ 341, „ 10, *for* "create" *read* "creates."
„ 344, „ 9, *for* "counted" *read* "considered."
„ 345, „ 22, *for* "member" *read* "minister."
„ 346, „ 6, *for* "shou'd" *read* "would."

THE AFFAIRS OF IRELAND.

VOL. IV.

INTRODUCTION.

THE IRISH QUESTIONS—MR. GRATTAN—LORD GRENVILLE.

AMONG the illustrious persons referred to in the exordium of the following speech, as having on former occasions brought the state of Ireland before the House of Commons, Mr. Grattan stands the foremost, whether we regard the history of his political life, and the great services which he rendered his native country, or consider only the very inferior subject of his rank as an orator. He it was who chiefly, after the Union, supported the Catholic Question when he entered the Imperial Parliament; he bore a prominent part in all the discussions of it, and of subjects connected with it, in which the House he belonged to had been engaged, up to the period of his death in 1820.

It would not be easy to point out any statesman or patriot, in any age of the world, whose fame stands higher for his public services; nor is it possible to name any one, the purity of whose reputation has been

stained by so few faults, and the lustre of whose renown is dimmed by so few imperfections. From the earliest years at which he could appear upon the political stage, he devoted himself to state affairs. While yet in the prime of youth, he had achieved a victory which stands at the head of the triumphs ever won by a patriot for his country in modern times; he had effected an important revolution in the Government, without violence of any kind, and had broken chains of the most degrading kind, by which the injustice and usurpation of three centuries had bound her down. Her immediate gratitude placed him in a situation of independence, which enabled him to consecrate the remainder of his days to her service, without the interruption of professional pursuits; and he continued to persevere in the same course of patriotism marked by a rare union of the moderation which springs from combined wisdom and virtue, with the firmness and the zeal which are peculiar to genius. No factious partisan, making devotion to the public cause a convenient and a safe mask for the attainment of his selfish interests, whether of sordid avarice or of crawling ambition, ever found in Grattan either an instrument or an accomplice. No true friend of the people, inspired with a generous desire of extirpating abuses, and of extending the reign of freedom, ever complained of Grattan's slowness to join the untarnished banner of patriotism. No advocate of human improvement, filled with the sacred zeal of enlarging the enjoyments or elevating the condition of mankind, was ever damped in his aspirations by Grattan's coldness, or had reason to wish him less the advocate of Ireland, and more the friend of his species.

The principal battle which he fought for his native country required him to embrace every great and difficult question of domestic policy; for the misrule and oppression exercised by England over the Irish people extended to all their commercial dealings, as well as to their political rights, and sought to fetter their trade by a complicated system of vexatious regulations, as well as to awe their legislators by an assumption of sovereignty, and to impose the fetters of a foreign jurisdiction upon the administration of justice itself. In no part of this vast and various field were Mr. Grattan's powers found to fail, or his acquirements to prove deficient; and he handled the details of fiscal and of mercantile policy, with as much accuracy and as great address as he brought to the discussion of the broader and easier though more momentous question—the great question of National Independence. He was left, on the achievement of his great triumph, in possession of as brilliant a reputation as man could desire; and it was unsullied by any one act either of factious violence, or of personal meanness, or of the inconsistency into which overmuch vehemence in the pursuit of praiseworthy objects is wont to betray even the most virtuous men. The popular favour which he enjoyed to so unexampled a degree, and in such unmeasured profusion, was in a short time destined to suffer an interruption, not unusual in the history of popular leaders; and for refusing to join in the designs, of a more than doubtful origin, of men inferior in reputation of every kind, and of a more than doubtful honesty—men who proscribed as unworthy of the people's esteem all that acknowledged any restraints of moderation—he lived to see

himself denounced by the factious, reviled by the unprincipled, and abandoned by their dupes, the bulk of the very nation whose idol he had but lately been.

The war with France, and the fear of revolutionary movements at home, rendered him for some years an alarmist; and he joined with those who supported the hostilities into which Mr. Pitt and the Portland seceders from the Whig party unhappily plunged the empire. But he carried his support of arbitrary measures at home a very short way, compared with the new allies of the Government in England; and the proceedings of the Irish Ministry during and after the Rebellion, found in him an adversary as uncompromising as in the days of his most strenuous patriotism, and most dazzling popularity. Despairing of success by any efforts of the party in Parliament, he joined in the measure of secession adopted by the English Whigs, but after a manner far more reconcileable to a sense of public duty, as well as far more effective in itself, than the absurd and inconsistent course which they pursued, of retaining the office of representatives, while they refused to perform any of its duties, except the enjoyment of its personal privileges. Mr. Grattan and the leaders of the Irish opposition vacated their seats at once, and left their constituents to choose other delegates. When the Union was propounded, they again returned to their posts, and offered a resistance to that measure, which at first proved successful, and deferred for a year the accomplishment of a measure planned in true wisdom, though executed by most corrupt and corrupting means—a measure as necessary for the well-being of Ireland, as for the security of the empire at large. He

entered the Imperial Parliament in 1805, and continued, with the exception of the question upon the renewal of the war in 1815, a constant and most powerful coadjutor of the Whig party, refusing office when they came into power upon Mr. Pitt's death, but lending them a strenuous support upon all great questions, whether of English policy or of Irish, and shewing himself most conspicuously above the mean and narrow spirit that would confine a statesman's exertions to the questions which interest one portion of the empire, or with which his own fame in former times has been more peculiarly entwined.

Among the orators, as among the statesmen of his age, Mr. Grattan occupies a place in the foremost rank; and it was the age of the Pitts, the Foxes, and the Sheridans. His eloquence was of a very high order, all but of the very highest, and it was eminently original. In the constant stream of a diction replete with epigram and point—a stream on which floated gracefully, because naturally, flowers of various hues,—was poured forth the closest reasoning, the most luminous statement, the most persuasive display of all the motives that could influence, and of all the details that could enlighten his audience. Often a different strain was heard, and it was declamatory and vehement—or pity was to be moved, and its pathos was touching as it was simple—or, above all, an adversary sunk in baseness, or covered with crimes, was to be punished or to be destroyed, and a storm of the most terrible invective raged, with all the blights of sarcasm, and the thunders of abuse. The critic, led away for the moment, and unable to do more than feel with the audi-

ence, could in these cases, even when he came to reflect and to judge, find often nothing to reprehend; seldom in any case more than the excess of epigram, which had yet become so natural to the orator, that his argument and his narrative, and even his sagacious unfolding of principles, seemed spontaneously to clothe themselves in the most pointed terseness, and most apt and felicitous antitheses. From the faults of his country's eloquence he was, generally speaking, free. Occasionally an over fondness for vehement expression, an exaggeration of passion, or an offensive appeal to Heaven, might be noted; very rarely a loaded use of figures, and more rarely still, of figures broken and mixed. But the perpetual striving after far-fetched quaintness; the disdaining to say any one thing in an easy and natural style; the contempt of that rule, as true in rhetoric as in conduct, that it is wise to do common things in the common way; the affectation of excessive feeling upon all things, without regard to their relative importance; the making any occasion, even the most fitted to rouse genuine and natural feeling, a mere matter of theatrical display—all these failings, by which so many oratorical reputations have been blighted among a people famous for their almost universal oratorical genius, were looked for in vain when Mr. Grattan rose, whether in the senate of his native country, or in that to which he was transferred by the Union. And if he had some peculiarity of outward appearance, as a low and awkward person, in which he resembled the first of orators, and even of manner, in which he had not like him made the defects of nature yield to severe culture; so had he one excellence

of the very highest order, in which he may be truly said to have left all the orators of modern times behind—the severe abstinence which rests satisfied with striking the decisive blow in a word or two, not weakening its effects by repetition and expansion,—and another excellence higher still, in which no orator of any age is his equal, the easy and copious flow of most profound, sagacious, and original principles, enumerated in terse and striking, but appropriate language. To give a sample of this latter peculiarity would be less easy, and would occupy more space; but of the former, it may be truly said that Dante himself never conjured up a striking, a pathetic, and an appropriate image in fewer words than Mr. Grattan employed to describe his relation towards Irish independence, when, alluding to its rise in 1782, and its fall twenty years later, he said, "I sat by its cradle—I followed its hearse."

In private life he was without a stain, whether of temper or of principle; singularly amiable, as well as of unblemished purity in all the relations of family and of society; of manners as full of generosity as they were free from affectation; of conversation as much seasoned with spirit and impregnated with knowledge, as it was void of all harshness and gall. Whoever heard him in private society, and marked the calm tone of his judicious counsel, the profound wisdom of his sagacious observations, the unceasing felicity of his expressions, the constant variety and brilliancy of his illustrations, could well suppose that he had conversed with the orator whose wit and whose wisdom enlightened and guided the senate of his country; but in the playful hilarity of the companion, his unbroken serenity,

his unruffled good nature, it would indeed have been a difficult thing to recognise the giant of debate, whose awful energies had been hurled, nor yet exhausted, upon the Corrys, the Duignans, and the Floods.*

The signal failure of the latter, when transplanted to the English Parliament, suggests a reference to the same passage in the life of Mr. Grattan. Men were variously inclined to conjecture upon his probable success; and the singularity of his external appearance, and his manner of speaking, as well as his action, so unusual in the English Parliament, made the event doubtful, for some time, during his speech of 1805. Nor were there wanting those surrounding Mr. Pitt, who foretold "that it would not do." That great debater and experienced judge is said to have for some moments partaken of the doubts, when the hasty execution of some passage, not perhaps marked by the audience at large, at once dispelled them; and he pronounced to his neighbours an authoritative and decisive sentence, which the unanimous voice of the House and of the country forthwith affirmed.

This illustrious patriot died a few days after his arrival in London, at the beginning of June 1820, having come with the greatest difficulty, and in a dying state, to attend his Parliamentary duties. A request was

* It is always a matter of difficulty to draw the character of a person who belongs to another, and, in some particulars, a very different country. This has been felt in making the attempt to give a sketch of Mr. Grattan; and whoever has read the most lively and picturesque piece of Biography that was ever given to the world, Mr. C. Phillips' Recollections of Curran, will join in the regret here expressed, that the present work did not fall into hands so able to perform it in a masterly manner. The constant occupation consequent upon great professional eminence, has unfortunately withdrawn him from the walks of literature, in which he was so remarkably fitted to shine.

made to his family, that his remains might be buried in Westminster Abbey, instead of being conveyed for interment to Ireland; and this having been complied with, the obsequies were attended by all the more distinguished members of both Houses of Parliament. The letter containing the request was signed by the leaders of the liberal party. The beauty of its chaste composition was much and justly admired at the time; but little wonder was excited by it, when the author came to be known. It proceeded from the pen of one of the greatest poets whom this country has produced, as well as one of its finest prose writers; who to this unstable fame adds the more imperishable renown of being also one of the most liberal men, and most uncompromising friends of civil and religious liberty who have appeared in any age. The rare felicity of our times, in possessing two individuals to whom this description might be applied,—Rogers and Campbell,—alone makes it necessary to add that the former is here meant.

"Filled with veneration for the character of your father, we venture to express a wish, common to us with many of those who most admired and loved him, that what remains of him should be allowed to continue among us.

"It has pleased Divine Providence to deprive the empire of his services, while he was here in the neighbourhood of that sacred edifice where great men from all parts of the British dominions have been for ages interred. We are desirous of an opportunity of joining in the due honour to tried virtue and genius. Mr. Grattan belongs to us also, and great would be our

consolation were we permitted to follow him to the grave, and to place him where he would not have been unwilling to lie—by the side of his illustrious fellow-labourers in the cause of freedom."

After Mr. Grattan, it would be difficult to point out any person to whom the great and fundamental question of Irish Policy, and the cause of religious liberty in general, was so much indebted as Lord Grenville;* while in the sacrifices which he made to it, he certainly much exceeded Mr. Grattan himself. He was enabled to render this valuable service to his country, not more by his natural abilities, which were of a very high order, sound judgment, extraordinary memory, an almost preternatural power of application, and by the rich stores of knowledge which those eminent qualities had put him in possession of, than by the accidental circumstances in his previous history and present position—his long experience in office, which had tried and matured his talents in times of unexampled difficulty—his connexion with Mr. Pitt, both in the kindred of blood and of place, so well fitted to conciliate the Tory party, or at all events to disarm their hostility, and lull their suspicions—above all, the well-known and steady

* The plan of this work of course precludes all reference, at least all detailed reference, to the conduct and the merits of living statesmen: But for this an ample field would be opened, in which to expatiate upon the transcendent services of Lord Grey, and the ample sacrifices which he made, during the greater part of his political life, to the rights and the interests of the Irish people. Lord Wellesley's services in the same cause, it is also, for the same reason, impossible to enter upon, further than to remind the reader, that after having almost begun life as the advocate of the Catholic claims, he, and after him Lord Anglesey, first set the example to succeeding Viceroys, of ruling Ireland with the most perfect justice to all parties, and holding the balance of favour between Catholic and Protestant, Churchman and Dissenter, even, with a steady hand.

attachment of himself and his family to the principles and the establishment of the Church of England.

When, therefore, he quitted power with Mr. Pitt in 1801, rather than abandon the Catholic Emancipation, the carrying of which had only a year before been held out as one of the principal objects of the Union; and when, in 1804, he peremptorily refused to join Mr. Pitt in resuming office, unless a Ministry should be formed upon a basis wide enough to comprehend the Whig party, the cause of liberal, tolerant principles, but above all, the Irish question, gained an able supporter, whose accession, whether his intrinsic or accidental qualities were considered, might justly be esteemed beyond all price. The friends of civil and religious liberty duly valued this most important accession, and the distinguished statesman whom they now accounted as one of their most powerful champions, and trusted as one of their most worthy leaders, amply repaid the confidence reposed in him, by the steady and disinterested devotion which, with his characteristic integrity and firmness, he gave to the cause. Taking office with Mr. Fox, and placed at the head of the Government, upon the death of that great man he peremptorily and with bare courtesy, rejected all the overtures of the King to separate from the Whigs, and rejoin his ancient allies of the Pitt school. Soon afterwards, in firm union with the remains of the Fox party, he carried the abolition of the Slave Trade, and retired from power, rather than bind himself not to press the Catholic Emancipation upon the narrow-minded though conscientious Prince whom he served. Continuing in close alliance with the Whigs, he shared with them the frowns of the

Court, and the habitual exclusion from office which has, for the most part, been their portion in public life. Nor can it be doubted that the perseverance with which he abided by his declared opinions in favour of the Catholic Question, alone prevented him from presiding over the councils of his country, during, at the least, twenty years of his life. They who have come to the aid of the liberal cause only when its success made an adhesion to it the road to Court favour, with all its accompaniments of profits and of power, have a very different account of mutual obligation to settle with their country, from that which Lord Grenville could at any time since his retirement have presented, but disdained ever even to hint at. But they who, after his powerful advocacy, his inflexible integrity, his heavy sacrifices, had all but carried the Irish question, have come forward to finish the good work, and have reaped every kind of gratification from doing their duty, instead of making a sacrifice of their interests like him, would do well, while they usurp all the glory of these successes, to recollect the men whose labours, requited with proscription, led the way to comparatively insignificant exertions, still more beneficial to the individuals, than advantageous to the community.

The endowments of this eminent statesman's mind were all of a useful and commanding sort—sound sense, steady memory, vast industry. His acquirements were in the same proportion valuable and lasting—a thorough acquaintance with business in its principles, and in its details; a complete mastery of the science of politics, as well theoretically as practically; of late years a

perfect familiarity with political economy, and just appreciation of its importance; an early and most extensive knowledge of classical literature, which he improved instead of abandoning, to the close of his life; a taste formed upon those chaste models, and of which his lighter compositions, his Greek and Latin verses, bore testimony to the very last. His eloquence was of a plain, masculine, commanding cast, which neglected if it did not despise ornament, and partook in the least possible degree of fancy, while its declamation was often alike powerful with its reasoning and its statement. The faults of his character were akin to some of the excellencies which so greatly distinguished it. His firmness was apt to degenerate into obstinacy; his confidence in the principles he held were not unmixed with contempt for those who differed with him; his unbending honesty and straightforward course of dealing with all men and all subjects, not unfrequently led him to neglect those courtesies which facilitate political and personal intercourse, and that spirit of conciliation which, especially in a mixed government chiefly conducted by party, sometimes enables men to win a way which they cannot force towards the attainment of important objects. Perhaps his most unfortunate prejudices were those which he had early imbibed upon certain matters of ecclesiastical polity, and which the accidental circumstance of his connexion with Oxford as Chancellor, strengthened to the exclusion of the reforming spirit carried by him into all institutions of a merely secular kind. Upon the Parliamentary constitution of the country, he had no such alarms or scruples; and although it is certain that he would

have reformed it much more gradually than the long delay of the great measure rendered ultimately necessary, it is equally clear that he would have stopt short of no improvement which could be required, merely because it was a change. For he was in this greatest quality of a statesman, pre-eminently distinguished, that as he neither would yield up his judgment to the clamours of the people, nor suffer himself to be seduced by the influence of the Court, so would he never submit his reason to the empire of prejudice, or own the supremacy of authority and tradition. "Reliqui sunt, qui mortui sunt, L. Torquatus, quem tu non tam cito rhetorem dixisses, etsi non deerat oratio, quam, ut Græci dicunt, πολιτικόν. Erant in eo plurimæ litteræ, nec eæ vulgares, sed interiores quædam et reconditæ; divina memoria, summa verborum et gravitas et elegantia: atque hæc omnia vitæ decorabat dignitas et integritas. Plena litteratæ senectutis oratio. Quanta severitas in vultû! Quantum pondus in verbis! Quam nihil non consideratum exibat ex ore! Sileamus de isto, ne augeamus dolorem. Nam et præteritorum recordatio est acerba, et acerbior expectatio reliquorum."*

* Cicero, Brutus, 266.

SPEECH

ON THE

ADMINISTRATION OF THE LAW IN IRELAND,

DELIVERED IN THE HOUSE OF COMMONS,

JUNE 26, 1823.

SPEECH.

I HAVE never, Sir, risen to address this House under a feeling of greater anxiety than upon the present occasion. When I recollect the vast ability on both sides of the House, which has, at different times, been employed upon subjects intimately connected with the prayer of this petition,* and the multitude of persons in Ireland who are earnestly looking to the result of the discussion; when I consider even the strength of the case committed to my charge; and more than all, when I survey the present state of the sister kingdom—it may well be supposed that I feel somewhat overawed at contemplating the task which I have deemed it my duty to undertake. The petitioners themselves have rendered the performance of it incalculably more difficult; for, whereas, when the Catholic question was discussed, the affairs of Ireland, and the intolerant and injudicious

* Mr. Brougham had, on a former day, presented the Petition of the Roman Catholics of Ireland, complaining of Unequal Administration of the Law, and he this night began his Speech by having it entered as read.

scheme of policy long pursued there, had been constant matters of debate, and had been handled by the ablest men, in every different form in which they could be shaped by talents and ingenuity; and whereas the great desideratum now is, to supply an answer to this question, "What is the practical effect of that system?"—to solve this difficulty, "How do the penal laws operate in Ireland, not merely upon individuals of rank excluded from the higher offices of the state, but upon all classes, from the loftiest to the lowest?" and whereas the petitioners, in the very title of their representation of grievance, complained of "inequality in the administration of the law," yet they, who of all others, are able to give the best information—to afford the clearest solution—to stop the mouth of such as maintain that there is no practical evil, by shewing that justice is not equally administered, and by giving facts in detail—the petitioners, intimately acquainted with the merits of their own case, deeply feeling the grievances under which they labour, and having daily and hourly experience of the consequences of the present system, have nevertheless omitted all statement of particulars, and have confined themselves merely to general declarations. I make this a ground of complaint, certainly not from myself against the petitioners, but from myself on their behalf, because they thus send me into court, as it were, briefless, where I am required to answer all objections, without being furnished by them with the means of doing so. I am thus reduced to one of two alternatives—either I must undertake the hopeless task of again going over the ground repeatedly trodden by the greatest men; or I must attempt, what is perhaps yet more hopeless, to supply the defects in the case that has been entrusted to my hands.

I take the cause of this oversight to be this—the petitioners do not give the House credit for knowing so

little of the present state of Ireland; they assume that the House knows what it does not know—that it is aware of facts which might be proved at the bar, to shew that justice is not equally administered to all classes in Ireland. When parties enter a court of justice in this country, (for in this country they happily are courts of justice), rich and poor are treated with the same impartiality. The law, thank God, is administered equally to both. But the petitioners, feeling, and well knowing the existence of the melancholy facts on which they rely, no more thought of introducing them into their statement, than any petitioner in this kingdom would take upon himself to explain and expound the excellence of our own judicial system. A petitioner in this country would never dream of telling the House that juries are not packed—that judges are decorous, and never sacrifice the rights of parties to a ribald joke—that Chancellors hold even the balance of justice between Protestants and Catholics, Episcopalians and Dissenters—that here the keeper of the Great Seal will never think of striking a gentleman out of the commission of the peace, because he is a sectary, as has been done in Ireland—the keeper of the Great Seal there, admitting that in so doing he had been guilty of an act of gross injustice, and yet eight years afterwards repeating it. In England, in administering the law to a creditor against his debtor, we should never think of inquiring, whether he is or is not able to bribe an under-sheriff. In England, the king's writ runs into all parts of every county. Here there is no detached corner, no land of Goshen, where some little tyrant dares to raise his flag in defiance to the orders of his liege lord the King. Our courts are open to the poorest suppliant; and however humble or unprotected, he has an equal chance with his titled adversary; nay, though he even were addicted to sectarian

opinions, instead of paying his devotions in the cathedral. The reverse of all this obtains in Ireland; and it is so well known there, that the Irish who feel the evil daily, never think of describing its details.

The petitioners are in themselves a most important class, and they represent many thousands; for the petition would have been signed by tens of thousands, had a few more days been allowed. The signatures already obtained are from persons of commanding influence, who speak the sense of six millions of his Majesty's subjects, who are strongly persuaded, that the law in Ireland is not the same as it is in England —that he would be guilty, not of extravagant flattery merely, but of intolerable mockery, of gross and ridiculous irony, who should attempt to compare the two. They feel that the law is not equally administered to all classes in point of rank; and that it is still more unequal, and still less fair and impartial, in the manner in which it is dealt out among the adherents of conflicting religious sects. From the fulness of the evidence they possess, because it is the evidence of their own senses, they have omitted the insertion of all details, giving the House credit for knowing that of which it is ignorant. The consequence is, that the petitioners, and I am sorry to say the whole people of Ireland, who really are now at your bar, have suppressed the most important facts. In the intensity of their sufferings, they have lost, as it were, the articulate language of remonstrance, and have had recourse rather to exclamations of despair, and those exclamations have been followed in some instances, by acts of open aggression; for exclamations of despair are the forerunners of such acts, and often at too short a distance. Forerunners I perhaps ought not to say; for while I am speaking, these outrages are going on, and it is

impossible for any man to be so little acquainted with these transactions, as not to be aware that I am guilty of any thing but exaggeration, when I take upon myself to assert that, for the last thirty years, Ireland has never been in a more alarming state. Of what, in the first instance, do the Roman Catholic petitioners complain? They say, that the laws are in themselves unequal, and that the inequality is aggravated by the incidental circumstance, not perhaps necessarily, but naturally, connected with the inequality of the laws, of a still more grossly partial administration. In my view, a mere representation of this kind, by a large body of the king's subjects, makes a sufficient *prima facie* case. If they demand inquiry and call for redress, that alone ought to be enough to induce Parliament to lend the petitioners a favourable ear. But the House is not left to this, even in the absence of any detail on the part of the petitioners. It is only needful to consider the state of that law which, though not necessarily, naturally leads to an unequal administration, in order to persuade any one that as long as men retain their natures, the law which creates an inequality in religious sects cannot be equally administered. The law at present separates the king's subjects into two classes; it severs those who ought to be as brothers under the same paternal government, and makes them foes. The law of England views the subjects of the realm as brothers, and the king as their common parent; but the law of Ireland holds a language widely different. It marshals man against man, faction against faction, sect against sect. It employs religious tenets on the one hand to foment (if it were not to profane the word) religious animosities on the other. The law of England esteems all men equal. It is sufficient to be born within the king's allegiance, to be entitled to all the rights the loftiest subject of the land enjoys. None

are disqualified by it; and the only distinction is between natural born subjects and aliens. Such, indeed, was the liberality of our system in times which we call barbarous, but from which, in these enlightened days, it might be well to take a hint, that if a man were even an alien born, he was not deprived of the protection of the law. In Ireland, however, the law holds a directly opposite doctrine. The sect to which a man belongs—the cast of his religious opinions—the form in which he worships his Creator—are the grounds on which the law separates him from his fellows, and condemns him to endure a system of the most cruel injustice. Not only this, but on the very same grounds and with, if possible, less right—with, if possible, more impolicy—and with, if possible, greater cruelty, —it leagues him against all who hold opposite notions, as essentially and as implacably, as his enemies are combined against him.

I will admit that great and salutary alterations have in modern times taken place. Since the year 1778, but more especially since 1793, important improvements in the code have been effected. The odious distinctions have been, in a great degree, mitigated. What remains is nothing in comparison with what has been taken away. Enough, indeed, is left to mark an absurd and ridiculous difference—absurd and ridiculous when viewed by the eye of the philosopher, but melancholy and degrading when contemplated with the eye of the politician. Enough is left for offence and insult, while nothing is accomplished for happiness and security. The Right Honourable the Secretary for Foreign Affairs, who so ably, on a former occasion, and before he accepted office, supported the cause of the Roman Catholics, has well referred to the mark which the fetters, though removed, have left behind them, and to the system of

extirpation which a ferocious tyrant of a former age was about to carry into effect. That system would have had, at least, more consistency in it than the one which this country has pursued towards Ireland. Our plan has had no sense or consistency. True it is that the chains have been removed; but the degradation and the insult remain, as long as a link is left to remind the sufferer of his miserable bondage. But, if the advice of the Right Honourable gentleman had been followed, and if the last link had been knocked off, still I should say, that as long as the gall of the fetter, the mark it inflicted, continues visible, justice cannot be impartially administered; because one class is thereby improperly stigmatized; and the eyes of judges, witnesses, and jurors will still detect the mark, and as long as human infirmity exists, impartial justice cannot be done. Why, then, has the wound, aggravated by the impatience of the bondman, been allowed to rankle, when it is in the power of the legislature in one moment to heal it for ever? It is powerless as a security, and infinitely prejudicial as a distinction; and as long as that hateful, that hideous distinction is preserved, so long will Ireland continue the scene of discontent and of aggression. One principle at this moment through all Ireland influences judges, jurors, magistrates, and almost every witness—the English, the humane, the equitable principle, not invented in a dark age, nor imported from a barbarous country—not even adopted in this our day of imitative admiration, from the Holy Alliance, and supported by their legions of Cossacks, but invented in England, and adopted by a body calling itself the English Parliament. It originated in the enlightened policy of this enlightened country, in this enlightened age. It remained for the nineteenth century to see the doctrine fully established—that the law in Ireland is a respecter of persons—that it pre-

fers one sect to another—that it will not allow men to worship God according to their consciences, or if they do, they must do it at the signal peril of forfeiting all claim to the protection of the law.

The first ground of my motion, then, is, that this Petion comes full of urgent complaint, from those who both actually and virtually represent the whole body of the Roman Catholics. My second ground is, that they have just reason to complain, and that as long as the odious distinction I have described remains, justice cannot, in the nature of things and of man, be equally distributed. But I think that I shall leave the case incomplete, if I do not go somewhat into details, though I will not trouble the House with more than is absolutely necessary, intending rather to give specimens than to enter into any elaborate and systematic examination of the subject, to which I profess myself incompetent, for the reason I have assigned. It is fit, however, to mention a few facts, which I shall be prepared to prove at the bar, should the House adopt the proposition with which I intend to conclude. In all I shall now offer, the House is to consider that I am, in truth, tendering evidence; and I shall scrupulously abstain from every thing which cannot, to the best of my belief, be substantiated by legal testimony, either of witnesses or of records.

When the subject is so extensive, it is of little importance where I begin; but I will commence with one of the most material parts of it—the state of the Magistracy in Ireland, by whose local jurisdictions justice should be brought home, as it were, to every man's door. It is in vain to deny, that in England abuses have, from time to time, crept into this branch of the administration of the Law; but various salutary acts have been passed, on the one hand, to protect magistrates acting *bona fide*, and on the other, to guard the king's subjects from malversation and misuse of a power

sometimes purely discretionary. It is by no means a matter of frequent complaint in this country, that improper individuals are selected for the magistracy. With us, a rule has been laid down by the Keepers of the Great Seal, (indeed I have seen it stated under the hand of the present Lord Chancellor), that they never will strike a person out of the Commission, whatever private charges may be brought against him, unless he has been brought to trial, and convicted by the verdict of a jury. I have known an instance of a magistrate several times accused of perjury, with complaints against him by a vast majority of his fellows in the Commission, whom, nevertheless, the Lord Chancellor peremptorily refused to oust, because he had been tried and acquitted, although every one who has seen how hard it is to establish such a charge must be aware that an acquittal in nowise proves the party to deserve a place upon the Bench of Justice. I recollect another case in Durham, about ten years ago, where the bishop, as custos rotulorum, was obliged to reinstate a certain magistrate, because, though accused, he had not been brought to trial. I do not mean that this rule is applicable to Ireland. A much greater latitude of discretion is required there. Not only the present, but former Chancellors, Lord Redesdale and the late Mr. Ponsonby, agreed upon this point. Upon that, indeed, I found my first observation; because, if a principle be established in England, the propriety of which no man disputes, is it not very extraordinary that by as common a consent it is allowed that this principle cannot be extended to Ireland? This fact is worth a thousand matters of mere detail. As to particular facts, a man may be misled or mistaken; but here is something that cannot deceive. A principle acted upon invariably on one side of the water is met by a diametrically opposite

principle on the other; and the difference can only arise from the fact, that the stuff of which justice is composed in England is of much happier material, and more finely tempered than in Ireland. But I am not without particular facts and authorities; and I will just call the attention of the House to a few instances out of a great variety.

The late Lord Gosford, governor of the county of Armagh, on a memorable occasion, had said, that "justice had been suffered to disappear, and the supineness of the magistracy to become the common topic of conversation in every corner of the kingdom." Before I proceed further, I will just mention that the word "supineness" will often occur in what I read, and that it is to be understood as a delicate mode of expressing a disinclination to suppress violence; this violence being, in ninety-nine cases out of a hundred, the Orange violence against the Catholics. The late Mr. Grattan was certainly a party man. In the highest, truest, and most honourable sense, he performed what he justly considered the important duties of party; but of all members on the opposition side of the House, his authority is the most unexceptionable; because he undeviatingly observed the strictest accuracy in his details, and was little liable to the imputation of being carried away by enthusiasm. He was a man of singular candour and of great moderation; and from his entrance into public life to the close of his illustrious career, gave signal proofs of his moderation, of his extreme forbearance, nay, of his gentleness and his calmness even in the tempests of factious times. He observed, on one occasion, that the government "trifled with the northern weaver, when it sent him to a grand jury;" and he added, that "the supineness and partiality of the magistracy had been the occasion of his sufferings and his losses." Mr. Ponsonby, who had filled the office

of Lord Chancellor in Ireland, and was therefore so competent to judge on the question, looking back to the time when he held the Great Seal, said with becoming reserve, that "the magistrates too often had been anything but what they ought to have been." Mr. Justice Day, in an address to the grand jury, charged them with "negligence, corruption, and partiality;" and the late Lord Kingston complained of some men as "a disgrace to the magistracy, deserving rather to be hanged than to be included in the commission." The charge of Judge Fletcher, in the year 1814, is well known. It is an able and elaborate production, and next to delivering no political charge at all, the greatest merit is, to deliver one so sound in its doctrines, that these are liable to no exception. Talking of the Orange societies, he says, that "they poison the very fountains of justice," and that "even some magistrates, under their influence, have, in too many instances, violated their duty and their oaths." Thence he proceeds to observe, that such associations are most pernicious, whether consisting of Orange or Ribbonmen, adding, that under their influence Petty Juries have declined to do their duty. It is sufficient, he says, to see such a man displaying such a colour, to produce an utter disbelief of his testimony; and when another has stood with his hand at the bar, the display of his party badge has mitigated the murder into manslaughter. These sentiments, coming from a man discharging judicial duties, are of the highest importance. Thence he proceeds to condemn all those associations bound together by unlawful oaths, remarking, "With these Orange associations I connect all commemorations and processions producing embittering recollections and inflicting wounds upon the feelings of others. I do emphatically state it as my settled opinion, that until those associations are put down, and the arms

taken from their hands, in vain will the north of Ireland expect tranquillity or peace." The learned Judge goes on to censure the unlawful oaths (such as have been treated with so much respect in this House on a recent occasion) taken by the members of the associations; and of the magistrates, he says, that "some were over zealous, and some, on the contrary, were supine," and he complains that "jobbers of absentees" and "traders in false loyalty," among other unfit persons, are too often put into the commission. Eight years afterwards, the same learned Judge does not appear to have found any material amendment in the magistracy; and in one of his last Charges he has asserted, that the conduct of the magistracy "might ultimately drive thousands to rebellion."

A great deal has been said of late respecting a reform in the Commission of the Peace of Ireland, and twelve counties have undergone the operation. If the scheme had been executed with the same honest and zealous intention for improvement with which it was undertaken, much good might have been the result; but if I have been rightly informed, little or no advantage has been the consequence, the measure having been treated as one rather of form than of substance. I have been told (and to this point I can produce evidence at the bar) that in six counties, one hundred and fifty-two magistrates have been displaced. The number looks as if a great, sweeping, and radical change had been effected; but, in truth, the vast majority of the one hundred and fifty-two consist of absentees, English and Irish militia officers, and others incapacitated from age and sickness, and not a few by death. How many does the House think, out of the whole one hundred and fifty-two, have been really removed for reasons such as those to which the change was originally intended to apply? Only fourteen.

Twenty-five have been removed in one county, and in another, fifteen; all of whom were incapacitated for the various causes which I have named.—[Mr. Goulburn asked, across the table, to what county Mr. Brougham referred.]—The county of Monaghan; and since the question has been put, I will just add, that among those removed for being sick, or dead, or absent, or an English militia officer, or an Irish militia officer, was not Sir Harcourt Lees. He is continued in the commission. In the county and city of Dublin, Major Sirr has not been removed; and I think there is just ground to complain that he is still in the Commission. It is an insult to the people of Ireland, over whom he exercised all the nameless tyrannies of the last rebellion. Even on the rule of the Lord Chancellor of England, his name ought to be instantly struck out. Nevertheless, he is allowed to be at the head of the police of Dublin; and he has told the House at the bar, that he there daily and nightly acts as one of the magistrates. Yet, in the city of Dublin itself, a jury of his country has given a verdict against him, for one of the grossest and foulest oppressions—so gross and so foul, that the oldest practitioners of our courts can find no parallel to it. The charge included in it the most base and perfidious fraud; for to eke out the measure of his injustice, and to overwhelm his victim, it was proved at the trial, that an order had been fabricated, the fabrication of which was vouched by his friend, his accomplice, his tool; the very man, in short, who had perpetrated the act of combined fraud and oppression. It was to this man that the victim had been delivered—to Major Sandys; and when Mr. Curran exclaimed, "There sits Major Sandys; if my witnesses deceive you, let Major Sirr put his friend and associate in cruelty in the box to deny it, if he can."—Major Sirr dared not do it; and all who had ears to hear, or eyes to see, were convinced,

with the jury, that Major Sirr stood self-convicted. Still he has been kept in his office—still he is employed; and two and twenty years afterwards, when he has grown grey in the service, he has been heard to declare at the bar of this House, "I am still on the bench of justice!" Look at the effect of these arrangements in the commitments in Ireland,—commitments made and signed by such magistrates as I have described! Melancholy to relate, there are more commitments in Ireland, taking the average of the last four years, than in England and Wales together. But how does the average stand, as to the number of convictions? Why, in those countries where law and justice are equally administered, in England and Wales, there were 43,000 commitments and 29,000 convictions; but in Ireland, with a list of commitments exceeding 45,000 the number of convictions did not exceed 16,000.

To the recorded opinions of men of talent and experience, to facts in proof before the House, and furnishing an argument still more powerful in favour of the proposition which I am supporting, I will add the memorable declaration of Lord Redesdale in the House of Peers—a declaration which admits the utmost point I can contend for. What has lord Redesdale, once the Lord High Chancellor of Ireland, said of the state of the administration of justice in that country? Lord Redesdale is not a man incautiously liberal of opinion. He is not likely to be the friend of hasty innovation. He cannot be suspected for the patron of unfounded complaints. He is rather one of those who will shut his eyes to any little irregularities in a system of which, in the main, he approves,—who probably will only speak out when he finds abuses growing so enormous, that no man can continue to hold his peace under them, and so impu-

dent, at the same time, that but from open denunciation, no termination of them can be expected. What, in spite of habit, or possible lurking prejudice, what is the opinion of Lord Redesdale, delivered only in July last, upon the state of the law in Ireland? His lordship has said this:—"I have been intimately connected with that ill-fated country for the last twenty years; and I am sorry to say, that there exists in it two sorts of justice—the one for the rich, the other for the poor—both equally ill-administered." And this was the effect of twenty years' experience upon the mind of the highest law officer (an Englishman too) in Ireland. This fact, standing by itself, is really worthy of deep consideration. I feel myself bound by it, indeed, in some measure, to proceed in this exposure. So, lest it should be supposed that Lord Redesdale has suffered from his long intimacy with Ireland, that from living there he has become infected with the spirit of complaint which pervades an ill-governed land, that communication has, as it were, tainted him with the disposition to remonstrate which, somehow or other, seems to have become epidemic among the whole people of Ireland; I will adduce a few examples in support of the noble and learned lord's declaration; and I will show, beyond the possibility of quibble, that the fact is distinctly as he has stated it.

In a country which enjoys the blessings of Trial by Jury, the manner in which juries are selected is a point of no slight importance. Now, excepting in the counties where the sheriffs are elected by the judges, in all corporations, (these corporations being formed of men full of prejudice against the Catholics, open to Papists certainly by law, but shut against them with all the obstinacy of bigotry by practice) in all corporate towns, the sheriff who chooses the juries is him-

self the selected creature of that select and prejudiced body. I am not about to enter into the late affair of the Sheriff of Dublin, but I will remind the House of an incident not relating to the present Sheriff. A gentleman of the name of Dillon M'Namara, an attorney of many years standing, was summoned upon the late inquiry; and, by way of discrediting his evidence, the following questions were put to him; "Did you not some years ago offer a bribe to a sub-sheriff of Dublin, if he would pack a jury to get off a client of yours, who was going to be tried for forgery?" Answer, "Yes, I did."—"Did he pack the jury?" Answer, "No, he could not, because the panel was up at the Castle."—Did not the sub-sheriff, it will be asked indignantly reject the bribe? Did he not treat the offer as every sub-sheriff of every county in England would treat it, and get no thanks or credit for so treating it neither? Mr. M'Namara's answer as to that point made no mention of indignation; he simply stated the conduct of the sheriff. The sub-sheriff said, that if he wished to do the thing, "it was not in his power, because the panel was gone up to the Castle." But the thing, good as it was, became better still, as the questions went on. Question, "Did not the sub-sheriff reject the bribe?" Mr. M'Namara would not say he rejected it. Question, "Why did he not get the bribe?" Answer, "Because he did not do what I wanted him to do." This was not, I submit, exactly the kind of dialogue which would have taken place between an attorney and a sub-sheriff in England, upon the subject of packing a jury. I will not say, that the man who would pack one jury to acquit a prisoner of felony, would as readily pack another to convict a prisoner of high treason, or of libel; but it would not be too much to suggest, that there is a point in money matters, to which, if the briber could

manage to go, he might possibly find access to the ear of the sub-sheriff, even although he should wish to secure a conviction for an offence of a graver character. Again, I will say nothing against the sub-sheriff in question. That individual did not, it appeared, receive the bribe. But, there is the fact before the House, that such a bargain has been openly talked of. There stood a respectable solicitor at the bar of the House, from whose answers I am entitled to conclude, and in my conscience I do believe the fact to be so, that in the eyes of the persons who fill those relative situations in Ireland, the idea of an attorney's offering to bribe a sub-sheriff, or of a sub-sheriff being bribed by an attorney to pack a convenient jury, does not excite the horror and surprise which the bare mention of such a project could not fail to produce in England. But I will go farther upon the point, for it will allow me to go farther. Suppose it possible for such a proposition to be listened to in this country—suppose the possibility of such an offer being made, and even accepted—suppose there were attorneys in England who would put such arts in practice if they dared, with a view either to their own advantage, or to the safety of their clients; still, this possibility admitted—leaves another impossibility behind,—no English attorney would ever talk of such a matter as it has been talked of by the gentleman lately examined at your bar. Such a man, although himself destitute of honest or honourable feelings, would be aware of the existence of those feelings in the hearts of those among whom he moved, and would have prudence enough to perceive, that if his interests had been aided by the transaction, his character was not at all likely to be assisted by its publicity.

But this example, though it shows much, shows nothing like the whole. What will the House say to another practice, which I can prove by competent wit-

nesses to exist in Dublin universally, of the sub-sheriff, whose duty it is to summon the juries, being in the habit of receiving from persons liable to serve, a fee of a guinea a-year, to refrain from calling on them to perform their duty? So that those men to whom it is convenient to pay a guinea a-year, do not serve on juries at all; while those who cannot afford to pay the guinea, are compelled to do double duty, and those who wish to serve, are, by not paying the guinea, obliged to serve more frequently than comes to their turn. And this precious practice is not peculiar to Dublin: the provinces have the benefit of it as well as the capital. But the fee in country places certainly is less—being half-a-guinea a-year, not a guinea. So that the superior classes, who are best calculated to act as jurymen, give up, unless where they choose to act, the duty altogether; and it falls into the hands of persons who, whatever their merits, are probably less competent and enlightened, and, from their situations, more open to be influenced. To say the least of this practice, it is improper, indecent, and such as in England could not be tolerated for an hour.

But this point becomes insignificant when compared with that which I shall next bring forward. I have already said that the king's writ does not run through Ireland. Of this fact, that it does not reach equally to all classes of persons, I am ready to give evidence at the bar. I can shew, that where a man has money for the purpose, he regularly bribes the sub-sheriff, as soon as that officer comes into place, and agrees to pay him all fees upon writs out against him for debt, as though such writs were formally served, provided the sheriff will give him timely notice of the issuing of such writs; no doubt, that he may be enabled at once to appear, and do justice to his creditor! To the poor man, of course, this indulgence does not extend—he is

taken with all the rigour of the law, and full justice is executed upon him. I say, that I can prove this at the bar; but, in fact, it has been proved within the last three days before a committee above stairs. I will read a note to the House of the evidence upon the subject; and I will venture to say, that but for the painful truths which it establishes the document would be amusing. It was an attorney of respectability who spoke, giving his evidence on the 23d of the present month. Question. "Do you regard the difficulty of obtaining money in Ireland after judgment, as one of the obstacles to English capital being carried to that country?" Answer. "Certainly I do; and it is one of the greatest evils we have to contend with." Question. "How does it arise?" Answer. "In the management of the office of sheriff; there is no such thing as executing a writ as you do it in England. I mean to confine this to executing it upon persons having the rank and means of gentlemen; and the city of Dublin and the county of Cork are exceptions to the rule. In other places, it is the habit, upon the appointment of a sub-sheriff, that he gets notice that he will be paid his fees upon writs delivered, if he gives notice to the party that the writ is about to issue." Question. "Does this practice prevail generally?" Answer. "I understand it to prevail every where, except in Cork county and Dublin city; but I daresay there are places even in Cork, where an arrangement might be made with the Sheriff." Question. "Is the committee to understand, that a different practice prevails with respect to poor debtors?" Answer. "I suppose that the sheriff, not being paid for any favour to them, does not shew any." (Some laughter was here prevalent in the House.) Why, yes, this is sport to the House, but it is ruin to the poor creditors in Ireland. Let Honourable members just look what this "favour" goes to produce. A man

may have L.20,000 in the English funds, or in any investment which the law does not reach; he may be living in Ireland in the midst of luxury and magnificence; a hundred writs may be out against his person; but, so long as he can bribe the sheriff to give him notice in time, he may defy his creditor, and suffer him to starve. And the evidence which I am quoting does not stop at this point. It asserts, perhaps, no more in fact than has already been stated; but it gives certain assertions in rather stronger terms. For instance—Question. "Do you mean to say, then, that there is one practice for the higher orders in Ireland, and another for the lower?" Answer. "Yes." This is speaking pretty plain. Question. "Stricter in the one case than in the other?" Answer. "Certainly." Is not this what Lord Redesdale had in his eye when he said, "There is one law for the rich, and another for the poor—both equally ill-administered." The evidence given by this man of practical knowledge and habits bears out, to the very letter, that which Lord Redesdale asserted.

It is to be hoped that the same abuses which are here detected at every step do not reach to the higher branches of the administration of justice; but it is fit to remember, that so long as the present disabilities exist, so long the judge who tries the question between the Catholic and Protestant, must himself be a member of the Protestant establishment; so long, in despite of individual talent or popularity, all rank at the bar, and all advantages attendant upon rank—such as weight with the Court, and general influence in society —all this must belong to a favoured class, and to a class which is looking up for favours in future. It is from this favoured class still that the sheriff is chosen. It is the sheriff who has the summoning, by his office, of the juries. And when it stands proved, that a sub-

sheriff may be hired to pack a jury, and that it is every day's practice for a sub-sheriff to be bribed for permitting the debtor to escape from his creditor, is it unfair to insinuate, that possibly a Protestant sub-sheriff may be found, as accessible to political prejudices, or feelings of religious conformity, as to the meaner motive of a paltry present advantage arising from a bribe in the shape of ready money? With respect to the Bench of Ireland, I have little to say. Different countries have different usages; and circumstances may happen, as matters of course, in one, which may be held highly reprehensible and indecent in another. I shall, however, freely avail myself of my privilege as a member of Parliament, to express my disapprobation of any Judge's conduct, when I consider that conduct to be unbecoming his high station. If a judge is bound at all times to maintain the dignity of his exalted office—if impartiality is the very essence of the performance of judicial duty, and without which no judge can be worthy of the name—surely, any mixture in party dissensions, any partisanship in religious or in political disputes, anything like entering into the detail of class differences and arrangements, anything approaching, however distantly, to becoming the tool of a particular faction, would be that sort of stain from which, above all others, the ermine ought most immediately to be purged and cleared. For, first, such interference touches a Judge's dignity; secondly, it renders his impartiality suspicious; and, thirdly, it goes to shake that respect which is due to every just and dignified magistrate—that respect which, if any magistrate forfeits by his misconduct, the sooner he vacates his office the better; the sooner that balance is wrested from him which he can no longer be expected to hold fairly—the sooner he drops that sword which none will give him credit for wielding usefully,—the better for the

community and for the law. When once he has rendered it impossible for the public to view him with confidence and respect, he cannot too soon lay down an authority, the mere insignia of which are entitled to veneration. I now name Lord Norbury, in right of my privilege as a member of Parliament—that privilege, which entitles me to speak my opinion upon Judges as freely and unreservedly as upon sheriffs or sub-sheriffs, upon attorneys, or upon the meanest of His Majesty's subjects—no just judge will ever object to such a proceeding—no judge will be found just long after the privilege so to proceed is abolished. Our Judges in England are just, because they dare not perpetrate injustice; and as long as Judges are men, they will dare to perpetrate injustice the moment the power of taxing them with it is lost. More than a year has elapsed since I laid before the House a letter addressed by Mr. Saurin, the late Attorney-general for Ireland, to Lord Norbury, the Chief Justice of the Court of Common Pleas in that country—a letter containing such a proposition as no Judge who sits in England would allow his most intimate, his dearest bosom friend, to make to him. I will venture to affirm, that if a letter like that of which I am speaking, had reached any one of the learned judges of England, if it had come from any individual of high station, the more sudden, the more instant, would have been the flash of that reverend person's indignation. If it had come from a near friend, the task to perform would have been harder, but the name of friend would have ceased to belong from that moment to the writer. But here, a year has elapsed since the letter in question was brought forward, and yet Mr. Saurin has not denied it, nor has Lord Norbury produced his answer. What would have been the answer of an English Judge to such a letter? "I return your proposition; you

know not the man whom you have dared to insult." But Lord Norbury has given no answer, or he has produced none. I trust that the answer has not been an answer of assent; but certainly it has not been such an answer as would have been given to such a proposal in England, or England and Ireland too would long since have been made acquainted with it.

Good God! Let the House consider what that letter called upon Lord Norbury to do. To job—to intrigue—for political purposes—upon his circuit! Carrying the ermine upon his breast, and the sword of justice in his hand, he was called upon, by the first law officer of the Crown, to prostitute the authority with which those emblems invested him, to the purposes of a political faction. I am told "it is the custom"—a custom more honoured in the breach than in the observance—"it is the custom for you on the Circuit to receive the country gentlemen in your private room, and to talk to them familiarly upon political subjects;" and this is to furnish his lordship with an opportunity of doing good to "the cause." It appears that he was in the habit of talking thus to the gentlemen of Philipstown; and, if he could impress upon them the consequences of granting the Catholic Emancipation, they would certainly elect Catholic members of Parliament—a consequence, by the way, most absurdly predicted; for there is scarcely a man in England who can believe that, if Catholic Emancipation were granted on the instant, all the Irish members returned would be Catholics; but, if he could impress upon the country gentlemen, that all the members returned would be Catholics, "and that those members would have the nomination of the Sheriffs, and in many instances perhaps of the Judges," I do not see how he will satisfy them that "they could scarce live in the country, if the measure were passed." So, here is a

Judge desired to take the opportunity of his circuit to deliver this lecture at place after place as he moves on; and to throw in suggestions, moreover, of such corruption in the general legislation and government, as may enable the Catholic members returned by the Catholic voters to go up to the Treasury, and say, "make such and such men Judges." The people of Ireland are to be told, and told by a Judge, that Judges may be appointed by political intrigue. Here is Lord Norbury instructed openly to decry the purity of that justice, of which he himself ought to have been the example and the ornament. He is to say first, that the Judges are corruptly appointed; and next, that they act corruptly after their appointment.

The information contained in the remaining portion of the letter runs thus:—If Protestant gentlemen, who have votes, and influence, and interest, would give these venal members to understand that, by betraying their country and its constitution, they will infallibly lose their authority, it would alter their conduct, though it could neither make them honest nor respectable." Honest nor respectable! "If," concluded the Attorney-general for Ireland, "you will judiciously administer a little of this medicine to the King's county, or any other member of Parliament that may fall in your way, you will deserve well." As some vindication, however, of Mr. Saurin, for having presumed to write such a letter as this, I have now to read a statement to the House, which I have found in a Dublin newspaper, under the head of "Lord Norbury's newest joke;" and from this statement, it appears that his lordship—sitting on the bench—has reflected upon a Right Honourable gentleman, a member of the House, and also, that for the sake of getting at his joke,—so much dearer was jest than justice to the noble Judge—he has actually refused a rule which

ought to have been granted as a matter of course, and which no man could have asked for in England without obtaining it. The circumstance out of which the joke arose was this:—A barrister moved for a criminal information against a half-pay officer, who insulted him in court. The officer was offended at something which the counsel had said of him in court, and he used language which, in England, would have made a criminal information a matter of ordinary routine. Lord Norbury, however, refused the rule, and refused it in the following terms:—The motion having been made, and the offensive words stated, his Lordship said—"I remember when, if the words had been used to me, I should not have been at a loss in supplying an innuendo. The phrase has certainly a somewhat gladiatorial sound. No man respects or loves the bar more than I do; but great allowance is to be made for the chivalrous propensities of men of the sword. They do not, as Hamlet says in the play, 'set their lives at a pin's fee.'" What was this, from a Judge on the bench, but saying, "you are a paltry fellow for coming here to me for protection; you know what the man wants: he wants you to go out and fight with him; and why don't you do it?" "On the other hand," his Lordship continued, "the gentlemen of the Bar have a repugnance to the arrest of that fell sergeant, Death." Why, is it not clear that the Rule was refused just for the opportunity to introduce this wretched ribaldry? "From which profession," the Lord Chief Justice proceeded, "the immortal bard drew his illustration, I shall leave to the commentators. *Cedant arma togæ* is good Latin and good law; but I am a friend to conciliation, and shall give a triumph to neither party. I mean no allusion. (Loud laughter.)" Ay, "loud laughter" were the very words which followed the conclusion of this jest; and for the sake of the "loud

laughter," no doubt it was, that the poor lawyer was refused his Rule. I venerate the Bench. I have a professional regard for it. I believe that no lawyer has ever shewn a greater disinclination than myself to countenance reflections upon the conduct of judges, either in the course of legal practice or in the transactions of parliament. But, I revere the bench only so long as the bench respects itself; and when I meet with intrigue where I am entitled to expect purity—low ribaldry and flightiness where there ought to be dignity—and duty sacrificed, in the course of a legal proceeding, for the silly vanity of uttering a trumpery jest—when I find a Judge conducting himself in this manner—and when I find manifest proof, moreover, that this Judge is not above being tampered with by a Crown lawyer for party—I might say for corrupt purposes—when I see such a spectacle as this, my veneration for the individual is gone, and even my patience is not proof against the contemplation of such impropriety. I declare that, for myself, I know of but one opinion upon this subject. I have talked with different members of the legal profession; I have discussed the matter with men of all parties, of all ranks, of all standings; and I have found in the profession, as well as out of it, but one opinion upon the point—but one sentiment of disgust at the attempted intrigue of Mr. Saurin; an attempt which Lord Norbury, if he has not lent assistance to it, has certainly not treated in the way in which an English Judge would have found himself compelled, but would most willingly have hastened, to treat it.

Upon a variety of other topics, connected with the ill-administration of justice in Ireland, I will detain the House but a short time. In general, it is sufficient to state the practice as it exists, and each particular case furnishes sufficiently its own comment. In this

condition stand the three systems of the Civil Bills, the Revenue Boards, and the Assistant Barristers. For the Civil Bill system it is scarce necessary to go beyond the records of the House. Act after act has been passed upon the subject, each admitting the faults or abuses let in by that which went before it. For the Revenue Boards, their whole construction carries abuse or mischief upon the face of it; the same individual adjudging forfeiture one moment, and claiming the benefit of it for his own advantage the next; and, controul over the liberties and properties of the king's subjects is committed to the hands of men without a qualification which would fit them to exercise it. But, though I have not exhausted the subject, yet the subject has exhausted me. I can only go so much farther as to beg the House would remember, that matters in Ireland cannot rest as they are for ever. One day or other the time must come, and the House will have to give an account of its stewardship of that country. England possessing Ireland, is in the possession of that which ought to be her security in peace, and her sinew in war; and yet, in war, what has Ireland been but a strength to our enemies; what in peace but an eternal source of revolt and rebellion and strife with ourselves? Ireland, with a territory of immense extent, with a soil of almost unrivalled fertility, with a climate more genial than our own, with an immense population of strong-built hardy labourers—men suited alike to fill up the ranks of our armies in war, or for employment at home in the works of agriculture or manufactures;—Ireland, with all these blessings, which Providence has so profusely showered into her lap, has been under our stewardship for the last hundred and twenty years; but our solicitude for her has appeared only in those hours of danger, when we apprehended the possibility of her joining our enemies, or when, having no enemy

abroad to contend with, she raised her standard, perhaps in despair, and we trembled for our own existence. It cannot be denied that the sole object of England has been to render Ireland a safe neighbour. We have been stewards over her for this long period of time. I repeat, that we shall one day have to give an account of our stewardship—a black account it will be, but it must be forthcoming. What have we done for the country which we are bound to aid, to protect, and to cherish? In our hands, her population seems a curse to her rather than a blessing. They are a wretched, suffering, degraded race—without a motive for exertion—starving in the midst of plenty. But, wretched as they are, they will not be content to remain so. They now demand justice. They call for it at your hands; and they are ready to prove their grievances. In fact, they have proved already the scandalous and unequal administration of the Laws. In England, justice is delayed; but, thank Heaven, it can never be sold. In Ireland, it is sold to the rich, refused to the poor, delayed to all. It is in vain to disguise the fact; it is in vain to shun the disclosure of the truth. We stand, as regards Ireland, upon the brink of a precipice. Things cannot remain as they are. They must either get better or get worse. I hope—I trust—that such an interval may yet be granted, as will allow time for measures—and they must be sweeping ones—of reformation; but, if that interval is neglected, frightful indeed are the consequences which will ensue. I may be wrong in this prediction. But, if I am wrong, I do not stand alone. I am backed in what I say by the spirit of the wisest laws—by the opinions of the most famous men of former ages. If I err, I err in company with the best judgments of our own time; I err with the common sense of the whole world, with

the very decrees of Providence to support me. We are driving six millions of people to despair, to madness. What results can reasonably be expected from such blind obstinacy and injustice? It will not do for Honourable gentlemen to meet this case with their old flimsy defences and evasions. Excuse after excuse we have had, for refusing to do that unhappy country justice; but the old excuses will not do—they will apply no longer —they cannot any more be even tried. At one period, we could not listen to the Catholics, from an apprehension of Buonaparte; at another period, the question was abandoned for fear of breaking down a strong Administration; on a third occasion, the claimants were met with "the scruples of the monarch." Buonaparte has since died upon the rock of St. Helena, in solitary confinement and unnecessary torture. The English monarch, too, has gone to his great account. There are no scruples in the present king's breast which weigh against the interests of Ireland. Two objections, therefore, to the claims of the Catholics, are, by the mere lapse of time, completely got rid of; and for the third —the danger of breaking down a strong Administration—it will be admitted, on all hands, that we run very little hazard just now of doing anything of that kind. To attempt any course with Ireland short of a complete redress of grievances, will be a mockery of the evils under which she is suffering; but the greatest mockery of all—the most intolerable insult—the course of peculiar exasperation—against which I chiefly caution the House, is the undertaking to cure the distress under which she labours, by anything in the shape of new penal enactments. It is in these enactments alone that we have ever shewn our liberality to Ireland. She has received penal laws from the hands of England, almost as plentifully as she has received blessings from the hands of Providence. What have these laws done?

Checked her turbulence, but not stifled it. The grievance remaining perpetual, the complaint can only be postponed. We may load her with chains, but in doing so we shall not better her condition. By coercion we may goad her on to fury; but by coercion we shall never break her spirit. She will rise up and break the fetters we impose, and arm herself for deadly violence with their fragments. If the government is desirous to restore tranquillity to Ireland, it must learn to prefer the hearts of the Irish people to the applauses of the Orange lodges. The warm-hearted disposition of that people—their desire for the maintenance of cordiality and good feeling—have been sufficiently evinced during His Majesty's recent visit to Ireland. What will not be the reception which they will give to their representatives for benefits actually conferred? But I am afraid to trust myself with the idea of a prospect, which I fear it will never be my good fortune in reality to behold; I believe I must come back to my sad original demand —those rights of common justice, that equal administration of law, from which Ireland is the only portion of Great Britain that is excluded. To do wrong to their subjects, in some instances at least, is the ordinary frailty of Governments. To deny the wrong, upon complaint being made, is not uncommon; but to deny the fact, and therefore to refuse justice, and, upon a re-assertion of the matter of complaint, to say—"I deny the grievance—I refuse redress—I know that you offer to prove it, but I did not do the wrong, and will not consent to any inquiry"—what is this but adding to injury and oppression mockery and insult? But, whatever the House may do, I have performed my duty. I have released myself from my share of the responsibility, as to the sufferings of Ireland. If the inquiry which I ask for shall be refused, I shall most deeply

deplore it. But the satisfaction will remain to me, that I have urged the House to its duty, and have omitted no arguments which I thought available, to induce you to the adoption of those measures, without which, on my conscience, I believe there can neither be peace for Ireland, nor safety for the empire. I now move you, "That the Petition of the Roman Catholics of Ireland, complaining of Inequality in the Administration of the Law, be referred to the Grand Committee for Courts of Justice."*

* This Speech is the one alluded to by Mr. Wilberforce, in a passage of his Diary, cited in the Life lately published by his sons, in these terms, (vol. v. p. 186)—"June 23. Brougham's speech quite thundering in the peroration—magnificent but very unjust declamation on great abuses of Irish Administration of Justice." Nothing, however, can be more correct than the statements of the Speech in point of fact. The evil state of the Irish judicial system was a thing quite inevitable, while the whole Bench, and all the executive offices of justice, from the High Sheriffs down to the lowest tipstaffs, were filled by the dominant sect exclusively—when every Catholic was tried by his adversary, and all the process of the law, as well as the impannelling of juries, was executed against him by his political and religious antagonists. Nothing in such a state of things could possibly prevent the grossest abuses and the most grievous perversions of the law, unless, indeed, we suppose the Irish to be of a different nature from all the rest of mankind. This is manifest, even without resorting to Lord Redesdale's celebrated dictum, that in Ireland there was one law for the rich, and another for the poor—a dictum, respecting the accurate reporting of which a doubt has since been raised.

REPLY.

UNLESS I shall trouble the House with a few words in reply to what has fallen from the Right Honourable gentleman,* both myself and the case committed to my care will be placed in an extremely unfair position; and the House itself, or at least a large portion of it, will have reason to complain of being driven to a decision in the dark, upon a question of the utmost importance. It must be observed, that when I addressed the House at an early period of the evening, I spoke to a different audience from the one which has just heard the Right Honourable gentleman's speech. The effect of this is most unfair, if I do not reply. Would not any one, for instance, who only heard his speech, infer from the manner in which he laboured the point of Mr. Scully's pamphlet, that I had made statements from this publication? But I never made the least allusion to it. I carefully and of purpose avoided taking any one statement from it, or resting any one proposition upon its authority, although I am fully aware of its value and importance in the discussion. I have, however, to return my thanks personally to the Honourable member

* Mr Peel.

for Galway* for the exceedingly jocose notice which he was pleased to take of my former address to you. I never remember to have noticed a more successful piece of mimicry, if I may be allowed, technically speaking, to say so, "on these or any other boards;" and I cannot help congratulating the Right Honourable Secretary,† our new manager, on having been enabled to close his theatrical career for his first season, with presenting to the favour of an indulgent and discriminating public so very eminent a performer as this actor from the Irish stage proves to be.

The Right Honourable gentleman,‡ in answering my statements respecting Lord Manners, has impeached my credit as an historian of facts, without attempting to discredit my reasonings. Let us see how this matter stands. I had stated the number of his lordship's judgments reversed to be fifty in the hundred. He states them as eleven in twenty-two. Now, this is precisely, and to a unit, the same proportion with mine—being one-half of the whole number brought under review of the Superior Tribunal. If, indeed, I had seriously inferred from this statement, that, on an application to the Irish Court of Chancery, there was only an even chance of obtaining a right decision, I should have been guilty of exaggeration. This, however, is matter of inference from the admitted facts, not of controverted statement; as far as it required or admitted of exposure, it had been exposed on a former evening by the Solicitor-General; and I have now demonstrated irrefragably, that in my account of the fact, which the Right Honourable gentleman thought fit, from an entire disregard of the particulars, to charge with inaccuracy, there was not the very slightest variation from his own statement. I might, with infinitely better reason, charge

* Mr. Martin. † Mr. Canning. ‡ Mr. Peel.

him with being ignorant of the most ordinary rules of arithmetic; but I content myself with accusing him of a total inattention to the argument he was handling, and an over anxiety to bring charges against his adversaries. I must however add, that if I admit the inference against Irish justice to be somewhat exaggerated from the equal number of affirmances and reversals, I can by no means allow that inference in favour of Lord Manners' judicial capacity, which the Right Honourable gentleman draws from the equal proportion of right and of wrong judgments when tried by the Court of Appeal. I freely acknowledge that I do not entertain the same profound respect for the noble Lord which he professes to feel. I speak the general opinion of the English Bar, at least, when I say, that as a lawyer he was unknown among us before his elevation to the Bench. I have since heard him distinguish himself as a judge, a lawyer, and a politician combined in one,—a union always most inauspicious; and I confess, that if I testify so much less respect for him than I could wish, or than any kinsman of yours, Sir, might have justly been deemed entitled to, it is from my recollection of his conduct on that great occasion, the Queen's case—conduct which excited indignation and disgust. Alone of all the assembled Peers he thought it becoming to call that illustrious person "that woman," and in a tone, too, not easy to be forgotten. He followed up this treatment by delivering an opinion which exhibited him as a lawyer in colours not much more favourable, which raised the wonder and moved the pity of all the profession, and which drew from the learned and venerable Keeper of the Great Seal, a remark felt by every one present as a correction and a rebuke.*

* Lord Manners laid it down as a matter quite of course, that "agent or not agent" is always a question of law. Lord Eldon said, "he thought every body had known that it is always a question of fact."

I cannot on this occasion omit all farther mention of Mr. Saurin's letter, because at every Catholic meeting, and indeed in every discussion of the subject, arguments are drawn from it and reference made to it,—more particularly in the debate at the great assembly which agreed to present the petition read this evening as the origin of the present motion. Without, therefore, being unreasonably fastidious, I really felt that I could not have declined all mention of this letter when I last addressed you. And why, let me ask, am I to be blamed for simply referring to an extensively published letter, as if I had first given it publicity? After it had run the gauntlet of all the newspapers in both Islands,—after it had been the established topic of discourse at every meeting for months past,—after it had become the standing dish in the Irish bill of fare wherever two or three were gathered together to partake of the political banquet, either spoken, or written, or printed, during the whole parliamentary season,—the Right Honourable gentleman comes forth with a solemn denunciation against me for merely referring to what all men have been reading and commenting upon, speaking, copying, handing about, printing, debating, attacking, defending, any time these last three months, in every place of resort all over the United Kingdom! I should at all times be the very last man in the whole world to sanction the publicity of any paper obtained—as I presume this letter must have been —by unfair means, and never intended by its writer to meet the public eye; and I entirely agree with the Right Honourable gentleman in his condemnation of those who have been concerned in obtaining the letter for the purpose of publishing it. Their conduct may not be criminal by the enactments of the law, but it is morally dishonest, and it is revolting to every honourable feeling. I go heartily along with him in reprobating all such odious practices; I hold with him that it is

shameful, indecent, and abominable to encourage them; I consider it as truly detestable to hold out the encouragement of bribes for the purpose of corrupting servants, and inducing them to violate their first duty, and betray the secrets of their master, aye, and of their mistress too. I say, of their mistress!—of their mistress! and not only to betray her secrets, and to steal her papers, and to purloin her letters, but to produce them for the treacherous, the foul, the execrable purpose of supporting a charge against her honour and her life, founded on the documents that have been pilfered and sold to her enemies! the proofs obtained by perfidy suborned, and larceny perpetrated!—and then to carry on a prosecution wholly grounded on matter drawn from sources so polluted, as at once insulted, disgraced, and degraded the nation—a prosecution so foul, so utterly abominable, making the sun shroud himself in darkness, as if unwilling to lend the light of day to the perpetration of such enormous wickedness!* And by whom was this infamy enacted? By the Ministers of the Crown—by the very colleagues of the Right Honourable gentleman who now pronounces so solemn a denunciation of all that tends to encourage servants in betraying the confidence of their masters and their mistresses. If he is sincere, as I cannot doubt he must be, in his reprobation of such vile practices, what disgust must he not feel at sitting in the same cabinet with the very men whose conduct he has so vehemently disclaimed! Not all of them indeed are touched by his disclaimer. The Secretary for Foreign Affairs,† to his great honour, early avowed the abhorrence with which that unparalleled proceeding filled him, and withdrew from all participation in it. I must also except my Right Honourable friend the President of the

* The eclipse of the sun at the opening of the case against Her Majesty.

† Mr. Canning.

Board of Control,* whose upright mind would never have suffered him to hold office while so atrocious a work was doing. But with these exceptions, all the other colleagues of the Right Honourable gentleman,—the Chancellor of the Exchequer, who sits beside him; the Lord Chancellor Eldon, Her late Majesty's ancient counsellor and warm partisan,—all concurred in carrying on the foul business which the Right Honourable gentleman now so loudly and so justly reprobates. I should like to see with what countenance he meets my Lord Chancellor after a report of his opinion delivered this night shall have reached that noble and learned person. (Cries of "*Question*," among the *cheers* which this remark occasioned.) Aye, you may cry *question*—you may try to change the subject—you may endeavour to bring on some other topic, when I touch a matter that cleaves to your consciences, and betrays while it stings your feelings. Yes, Sir, we were ourselves parties to this degradation. We have yet a green bag in our possession, which, instead of rejecting it with horror and disgust, we received with open arms. We laid it on that table,—we entertained the subject of its foul contents,—and, but that some opportune chance occurred to prevent it, we should have raked into all the filth that it contained, with the malice, the appetite, and the fury of beings little above the condition of a fiend. It was filled with matter procured by means in comparison to which the means taken to obtain Lord Norbury's letter rise into something of respectability. Let us not, therefore, now be so very nice on such a topic, nor so very loudly condemn those whose bad practices may have been prompted, as they are far more than sanctioned, by our own evil example.

Great stress has been laid in this debate upon my

* Mr. C. W. Wynn.

alleged mis-information as to Sir Harcourt Lees being a magistrate. I can only say that I had my information on this point from a gentleman whose authority I considered to be good. The Right Honourable gentleman, however, denies that the Reverend Baronet was ever in the Commission of the Peace.. Suppose the fact to be so, it cannot alter the case which I did not at all connect with the statement of that circumstance. The case stands confirmed in many other points. I stated that justice is bought and sold in Ireland, and we have this now admitted by the member for Limerick, the son of one of the chief magistrates in the sister kingdom, and whose hereditary prepossessions would certainly have led him to a contrary statement, had he felt it possible to make it. I did not so much condemn the individuals as the system. I do not mean to represent Irishmen as more prone to corruption than others; but I do say, that under such a system, a set of angels, much less of Irishmen, could never be free from corruption and injustice. None of my authorities have been disputed except that of Mr. Justice Fletcher, whom the member for Galway* has described as one of the worst of Judges; partial, irritable, unjust, and whom nothing in all his life became so much as the leaving it. The opinion is certainly somewhat severe; and I make no manner of doubt that there may be some passages in the Honourable member's own life which give him a knowledge of the subject, and make him an experienced authority regarding the learned Judge's judicial character.† Still I must say, that his statement is the very contrary of all that I had hitherto heard respecting Mr. Justice Fletcher. I had always understood him to

* Mr. R. Martin.

† It was supposed that Judge Fletcher had presided on the Crown side, on the occasion when Mr. Martin was tried for murder in a duel; but this has been since questioned.

be upright, strictly impartial, and sincere in the opinions he professed. I will not now go into the question how far a Judge may with propriety deliver a political charge; but I will assert that next to the merit of not having done so at all, Judge Fletcher is entitled to the praise of delivering an exceedingly good one. It is said that his opinions are opposed by those of Mr. Baron Smith. For that learned person I entertain much respect. I admit his talents, and I have nothing whatever to say against his character; but if I were to form an opinion from some of his works, which it has been my fortune to read, and also bear in mind that they proceeded from a learned Judge on the Bench, I confess that I should be unable to entertain a very high opinion of the soundness of his judgment; and to bring him, as an authority, into any kind of comparison with Judge Fletcher, would be entirely out of the question. Except in the particulars to which I have referred, the whole of my authority remains altogether unimpeached.

But then comes the Honourable member for Cork,* who has got into the most laudatory mood ever man was in, and has praised the whole administration of Irish justice in all its branches. He eulogised the twelve judges, the grand juries, the petty juries, the justices, the assistant barristers, in short, all the authorities connected with this portion of the civil government of Ireland. All were alike pure, and wise, and impartial, and just. Praise so wholesale, so unqualified, so indiscriminate, reminded me of a passage related in Mr. Hargrave's life, when he was appointed Recorder of Liverpool. That extremely learned person was so pleased with his elevation, and so satisfied with his reception by the good people of the town when he went

* Colonel Hutchinson.

there to exercise his judicial functions, that he was flung into a fit of praise, like that of my Honourable and gallant friend, and on his return he could never cease in his panegyrics. As for the magistrates, "Oh!" he would say, "they were all that could be desired, so kind, so humane, so considerate, so active, too, seeming to delight only in seizing every opportunity of being useful." Then the attorneys who practised before the worshipful bench, they, too, were a most worthy and respectable set of persons, deserving of a better fate, and well fitted to do honour to the wig and the gown. The juries, too—both grand and petty, (as the member for Cork has it,) they were most kind, attentive and intelligent. And as for the suitors, they were so civil, and so candid,—so grateful for the smallest portion of justice, that it really was a pleasure to administer it to them. "But the prisoners?" said one who had been listening to this laudatory statement. What of them? "Why, really," said Mr. Hargrave, "for men in their situation, they were as worthy a set of people as I ever met with." Just so it is now in Cork, we find. The gallant representative of that community vies with the learned Recorder of the other place, and exempts from his praise nor judge—nor juror, grand or petty—nor recorder—nor assessor—nor justice—all are sacred to panegyric in Cork and its neighbourhood. To be sure there was one expression that crept into this eulogy, meant to be unqualified, which rather detracted from its value, and in a somewhat material part. "The twelve Judges," says my Honourable friend, "are *generally* pure." In England, we are accustomed to think quite as a matter of course, that all our twelve Judges are, without any exception, pure and incorrupt. What notion would a foreigner have of our administration of justice, were he told, and told by one bent upon extravagant praise of it, that the Judges of the land are, "generally speaking,

pure?" For my own part, I never reported the Irish Judges as corrupt; but I did maintain, that from the system established in Ireland, they were more liable to be swayed by prejudices of party, of person, and of sect, than is compatible with the pure and impartial distribution of equal justice. It has always been admitted, that the Court of King's Bench is pure; but this is really put forward with so much ostentation, it is promulged with so triumphant a tone, that one might be led to suppose as much could not be said for the other two Courts.

In conclusion, let me implore the House to adopt this resolution. Their assenting to it can by no possibility be productive of any mischief, but it will promote conciliation,—it will calm angry feelings,—it will remove discontent,—it will avert danger of which we can neither see the extent nor the consequences. I hear it said that this is not the Petition of the Roman Catholics of Ireland, and does not speak their sentiments. There can nothing be more absurd or more wide of the truth than such an assertion. The sentiments of the great body of the Catholic people of Ireland are truly stated in the Petition. The body from which it proceeds, is looked up to with entire confidence by the whole body of the constituents whom they represent, and for whom they act. The strong language used by persons so entrusted by their fellow-countrymen, may well be excused even if it passes the bounds of moderation, when we recollect how much they all have at heart the object in view. But of one thing be you well assured, that there can no more certain way be found of causing the language of this petition, vehement and even violent as you may think it, to be re-echoed from one end of Ireland to the other, than by alleging that it is indecent, that it comes from parties not entitled to respect, and that it speaks not the sentiments of the Irish people.

The one sarcasm which has to-night been resorted to, in allusion to some condemned Tragedy* of a supposed party to the composition of this document, will rouse six millions of Catholics to rally round their two thousand leaders. I would advise this House not to criticise the Petition with too severe a nicety. I would bid them look at the state of Ireland,—such as now to raise fears in those who never feared before,—such that while yet I speak, she may be involved in serious peril. Let the House throw open wide the doors of its Grand Committee of Justice to the prayer of this Petition! The effect will be instantaneous; all danger of popular excitement will be averted, or at least suspended, and hope raised in the minds of all, will keep them quietly fixing their eyes upon what the next session may accomplish for their relief. In the name of six millions of your fellow-subjects, whose interests I am maintaining, whose wishes I represent,—in the name of the whole community whose peace is threatened,—in the name of the empire at large, whose security is endangered,—I conjure you not to reject the prayer of this petition, but to obtain present safety for the commonwealth, by telling the Irish people that you will consider their case, and at length do them justice.

* Mr. Peel having likened the composition of the Petition to "the declamatory style of a condemned tragedy, rather than a grave representation to the legislature," was supposed to refer to some dramatic efforts of Mr. Shiel, a party concerned in its preparation.

SINCE the preceding debate, several very important events have happened, which nearly relate to the subject of it.

I. The first of these is the carrying of the great measure of Catholic Emancipation by the Duke of Wellington and Sir Robert Peel, early in 1829. The firmness and vigour of that proceeding, so truly worthy of the renowned individual by whom chiefly the achievement was won, cannot be too much admired. Nor, in paying this willing tribute, can any person who lays claim to the character of fairness and justice, forget the long efforts and the many sacrifices of Lord Grey, Lord Holland, Lord Lansdowne, and the other Whig leaders, to the same cause. The Duke was but a recent convert to the policy which they had throughout their lives maintained, at such heavy cost to all the objects that ambitious men hold most dear,—objects sacrificed only by the statesman whose patriotism overleaps all selfish bounds.

Many persons, observing the rise in Roman Catholic demands since the Emancipation, and perceiving how little either agitation has ceased, or the discontents of the Irish people and their spiritual leaders have been allayed, deem themselves justified in asserting that the Protestant Establishment has been weakened and put in jeopardy for nothing, and that all the expectations

held out of benefits from the Catholic Relief Bill have been frustrated. Nothing can be more true than that less by far has been gained from the measure than all men seemed to hope; but its long delay is in great part to be charged with this disappointment. Moreover, no one ever pretended that the Emancipation alone could work the miracle of at once restoring Ireland to peace and contentment, and efface the effects of so many centuries of misgovernment. Other measures were always felt to be necessary for producing the blessed fruits of order and tranquillity. Above all, it was clear that the mere conferring of equal rights upon every class and sect, would not suffice even to satisfy the reasonable desires of the most moderate partisans of the excluded caste. To be eligible only, and never be elected; to be qualified by law, but excluded in practice; to be rendered capable of promotion, but never be made partakers in the honours and emoluments and powers attached to the public service—so far from an improvement in the condition of the Catholics, appeared rather a worse lot than that from which the Emancipation pretended to redeem them; it seemed as if insult and mockery were added to injustice and oppression. Lord Wellesley, who had nobly signalised his entrance into public life by fighting under Mr. Grattan's standard for the great cause of Legislative Independence, had, before the Emancipation was carried by his illustrious brother, rendered himself still more dear to the Irish people, during his first Vice-royalty, by holding even the balance between conflicting sects, and resolutely giving to the Catholics every advantage which the law permitted them to enjoy; and he equally illustrated his second

Lieutenancy, after their acquisition of equal legal rights, by seeing that the fact and the law corresponded, and by admitting them to a full share in the honours and profits of the State. Lord Anglesey adopted the same wise and statesmanlike course; and Lord Normanby, (we feel a pleasure in restoring to him a name which his talents as a private and literary man had made celebrated,) pursuing the same manly and honest policy, has most justly endeared himself to the Irish people. But this is all too little for the great exigency of the case; other measures of reform in Church and in State are still imperiously required to tranquillize Ireland; and as long as the foulest practical abuse that ever existed in any civilized country continues untouched, or touched only with a faltering hand,—the Irish Church as lavishly endowed for a sixteenth part of the Irish people, as if more than double their whole number could partake of its ministrations,—there assuredly never can be peace for that ill-fated land.

II. The late extension of the Poor Laws to Ireland is a measure of almost equal magnitude with the Emancipation itself, and of a truly portentous aspect. It has been strenuously resisted by all parties and all sects in that kingdom. The circumstances of the two countries are so totally different, in some most material respects so entirely opposite, that no argument can be drawn from England to Ireland in behalf of this ill-starred policy. Into the question at large this is no place to enter. Lord Brougham's speeches, in which he continually opposed the Bill, and shewed how inapplicable its provisions were to the state of the country for which

it was framed, proceeded exactly upon the principles unfolded in the two speeches on the English Poor Law amendment act, contained in this collection. No man, indeed, without being friendly to the worst abuses of our system, which that act was designed to amend, can consistently support the late extension to Ireland of a policy so liable to be abused, and from the abuse of which England is only gradually and at length beginning to recover.

He pointed out when the subject came last before the House of Lords, other measures which the safety of Ireland required. One was the abolition of the Lord Lieutenancy, without which the Union can never be said to be perfect, and of which all our most eminent statesmen, including Mr. Pitt, Lord Grenville, and Lord Wellesley, were the decided friends. Another, and still more important measure, was the making provision by law for the Romish clergy. This would indeed be by them vehemently opposed, especially at the first and before it was carried. But Lord Brougham expressed a confident belief that, when carried, it would be cheerfully and even thankfully acquiesced in. A story is current upon this subject, and of its truth there is no manner of doubt. One of the Catholic prelates being asked by a distinguished minister what the Romish clergy would do were such a measure to be propounded? answered, "All without one exception would oppose it to the uttermost and to the last." But upon a second question being put, "What would they do were it carried?" the answer was as ready. "All without one exception would take the benefit of it and be thankful."

But Lord Brougham held even this to be insufficient.

The grand abuse of the Irish Established Church,—so incommensurate to the benefits it rendered the State,—so grinding to those millions who dissented from its worship,—this master evil he regarded as the source of perennial discord, and as a thing of impossible duration. Nay, he foretold that hardly any who heard him were so aged that they might not expect to outlive so enormous an abuse as the gross disparity universally complained of.

III. There has occurred a disclosure upon the course pursued by the Irish Government in naming the Sheriffs of Counties, which any one interested in the great subject of the Irish judicial administration, must feel to be most important, and which connects itself closely with the topics discussed in the foregoing speech of 1823. It appears that the executive government habitually interferes with the choice of those important Ministers of the Law; does not, as in England, consider the lists given in by the judges to be at all binding; displaces without any scruple all the names so selected; and frequently appoints others without any communication from the Bench. This course of making pocket-sheriffs, or sheriffs without any judicial authority for their nomination, is found to have been followed no less than twenty-two or twenty-three times in three years. So grave a matter unavoidably called for the attention of Parliament, and it was ably and temperately submitted by Lord Lyndhurst to the House of Lords, as the especial guardian of the purity of our Judicial Establishment. A Committee was in consequence appointed to investigate the whole of this subject; and a more important inquiry has, perhaps, never

been undertaken by either branch of the Legislature. It is hardly possible that results favourable to the cause of good government and popular rights should not follow from the Committee's labours. Certainly had the things now known been disclosed before the debate in 1823, it would have been wholly impossible to resist the motion then made and rejected. For an habitual interference of the Crown with the appointment of an officer upon whom depends both the execution of all judicial orders and the return of all members to serve in Parliament, must at any rate be put a stop to, in whatever misapprehension of the law such an abuse may have had its origin.

THE GREY FESTIVAL.

INTRODUCTION.

MIS-STATEMENTS IN REFERENCE TO THE SPEECH OF LORD DURHAM AT THE GREY FESTIVAL.

THE following Speech was delivered at Edinburgh, on the occasion of the great dinner given to Lord Grey by the Scottish Reformers. It has been grossly misrepresented; spoken of as against going on with Reform; and described as saying, that if little had been done in last Session, less would be done in the next.*

The speech is copied from the Report published at Edinburgh in October 1834, and was never seen by Lord Brougham till these volumes were in the press.

* This must have been a perversion of an observation made at a meeting in Inverness, where probably no experienced reporter attended. What Lord Brougham did say was, that the number of great measures carried in the two last Sessions, all of which he enumerated, as Emancpiation, East India Trade, &c. made it unreasonable in men to complain that nothing had been done, and made it quite certain that less must be done next Session, because these subjects, the greatest of all, were already disposed of. Lord Brougham well knew what important measures were in preparation; but few indeed of which have since been carried.

Another yet more gross misrepresentation has been made of Lord Durham's allusion to the Speech of Lord Brougham. It has been repeatedly asserted that he made a bitter attack upon it. The utter falsehood of this story is best exposed by the following extract from Lord Durham's Speech, which includes every single word in which reference is made either to Lord Brougham's Speech, or to the conduct of him or of his colleagues.

"My noble and learned friend, the Lord Chancellor, has been pleased to give some sound advice to certain classes of persons, of whom, I confess, I know nothing, except that they are persons whom he considers as evincing too much impatience. I will freely own to you that I am one of those who see with regret every hour which passes over the existence of acknowledged but unreformed abuses. I am, however, and have no doubt that you will agree with me, willing to accept their correction as deliberately as our rulers would wish it; but it must be upon one condition, that every measure must be proposed in strict conformity with the principles for which we have ever contended. I object to the compromise of those principles. I do not object to the deliberation with which reforms are conducted; but I object to the compromise of those principles. I object to the clipping, and the paring, and the mutilating, which must inevitably follow any attempt to conciliate enemies, who are not to be gained, and who will requite your advances by pointing out your inconsistency, your abandonment of your friends and principles, and ascribe the discontent created in our own ranks by these proceedings, to the cause that liberal feelings no longer predominate in the country. Against such a course of proceeding I must ever protest, as pregnant with the worst consequences, as exciting distrust and discontent where enthusiastic devotion is necessary, as creating vain hopes which never can be realized; and above all, as placing weapons in the hands of those who will only use them for our destruction, and the destruction of the great and impor-

tant interests committed to our charge. With this frank and free exposition of my sentiments, which I have never concealed wherever I have been, and which I never will conceal, I beg to state that I am ready to accept this qualification, to grant the admitted extent in deliberating which my noble friend and the ministers may require, and to place confidence in their declarations of this night, which I am sure will give an earnest of tranquillity to the country, which perhaps it does not possess, and to afford that support which an humble individual like myself can give them."

If anything else was at any time said on the subject by Lord Durham, it must have been at some other meeting which Lord Brougham did not attend. Nothing was ever more absolutely false than to represent Lord Durham as having said anything in the least resembling an attack on Lord Brougham, at the Edinburgh Dinner, where alone Lord Brougham was present.

It may be added, that Lord Brougham has ever since pursued the very same course with respect to Reform which the following speech recommends. It would be incorrect to say that Lord Durham has materially altered the opinion above given upon the same subject; but assuredly he has very much moderated, and very wisely moderated the tone of his remarks, both as to the question of time and of compromise; nor has he made any protest to Reform being laid on the shelf by the Government.

SPEECH

AT

THE GREY FESTIVAL, EDINBURGH,

SEPTEMBER 15, 1834.

SPEECH.

My Lord Rosebery and Gentlemen,—I am sure I shall best express my own feelings, in beginning to address you, by repeating what my Noble Friend prefaced his speech with, that I do not use a common phrase when I tell you, that I want words to express the feelings with which your kind reception of me has overpowered me at this moment. I know, however,—and that consideration might well stifle within me any feelings of personal pride or arrogance,—that I owe this expression from you, not by any means so much to any personal deserts of my own, as to the accidental circumstance, but to me most honourable, of having the pride and gratification to serve that great and gracious Prince who lives in the hearts of his people, and who, for all the services he has rendered to his country, and his honest, straightforward, and undeviating patronage of the best rights and interests of that country, has well earned the unparalleled praise bestowed on him so justly, and without any exaggeration, by your noble chairman, that

none of his predecessors ever more richly deserved the affections and gratitude of his subjects. But I also owe your kind reception of me to my Noble Friend having judiciously coupled my name with those of my most respected colleagues, the rest of His Majesty's Ministers, some of whom are here present, and others of whom, though not present, will hear of the manner in which you have been pleased to name them; and I can answer for them, that they will be penetrated with the same gratitude which I now feel, and will be incited by that gratitude to disregard looking behind them, except only to take an example by their colleague, whose irreparable loss they have lately sustained, and to whose great services this most splendid and unparalleled national testimonial has been so appropriately given. But looking forward, in all other respects, I hope that we shall, by the confidence of our countrymen, be animated to exert ourselves in the service of the people, and supported by that confidence, only to be earned by our own endeavours, and supported by the confidence of our master, shall continue to earn the approbation of the country by deserving it.

Gentlemen, I have not had the satisfaction of appearing before an assemblage of my fellow-citizens in Edinburgh since I had the honour to be clothed with the attributes of office. I have met you before in great numbers, upon an occasion when liberal men were not in elevated situations—when from the head of the State no encouraging smile of royal favour was half so discernible as were the frowns, the perennial frowns, under the mortifying but harmless shade of which we then persevered in our exertions for the people, and flourished notwithstanding. I remind you of this, in order to satisfy those who may look with an eye of envy, perchance, on the present meeting, and may attribute its numbers to the favour in which official men

hold the opinions you are all met this day to avow. But I have to remind you of an occasion on which, with no such possibility of misconstruction, the citizens of Edinburgh flocked together to celebrate, in the shade of opposition, what they are now exulting over the triumph of, in the sunshine of success, and under the patronage of power. Gentlemen, upon that occasion I said, out of office, and at that time with little prospect of ever being in power, what I am now proud to repeat in the same words which I used nine years ago, and which I can say as conscientiously, now that I have been four years Minister, as I did then in opposition, "My fellow-citizens of Edinburgh, these hands are clean." In taking office, and holding it, and retaining it, I have sacrificed no feeling of a public nature—I have deserted no friend—I have forfeited no pledge—I have done no job—I have promoted no unworthy man, to the best of my knowledge—I have stood in the way of no man's fair pretensions to promotion—I have not abused my patronage—I have not abused the ear of my master—and I have not deserted the people. I am one of those ministers, and my Noble Friend is another, who have never feared the people. I rejoice, and delight, and glory, in office and out of office, in every opportunity of meeting the people, to render an account to them of my stewardship, and, face to face with them, to tell them what I think, even when I happen to think differently from them. For be well assured that that statesman only knows half his duty, and has only half learned what belongs to his place, who would rule men, who would administer the affairs of his fellow-subjects, if he has only learned to fight for the people against the frowns of power, unless he can also, when he thinks the people ill-advised, do good to the people according to his own conscience, and in spite of the people themselves. And

such would be my opinion, and such the course of my conduct, if, unfortunately, it ever happened,—and I have never yet seen the day, or the act of the people, which could lead me to believe it could ever happen,—that I and the people should ever seriously differ in opinion.

I entirely agree in all those wise and statesmanlike principles which have been so impressively, so clearly, and so convincingly expounded to you by my Noble Friend who preceded me. Let the Government of the country, strong in the support both of the Crown and the people, proceed steadily, firmly, and unflinchingly, to discharge their duty, by promoting the progress of liberal opinions; but let them not be hurried out of their course, either to the right or to the left, or onward in their course, faster or farther than sound reflection, calm deliberation, and statesmanlike prudence, entitle them to go. Some men I know, nay, a great number,—I have no doubt, honest conscientious men,—men, generally speaking, of sound opinions, but somewhat unreflecting, who think that execution and action is every thing, and that all the time spent in deliberation and in preparation is time thrown away; some of these men blamed my Noble Friend and my other colleagues, the year before last (1833), and said they had done nothing during the session. One-twentieth part of one of those nothings would have made the fortune of any other administration. I do not mean, because you do not require it, in the presence of my Noble Friend and colleagues, who would restrain me, if I had such an intention, to enter upon a superfluous panegyric of that extraordinary session, in which the Ministers were said to have done nothing for the people; I only mean to shew those who think that we are too slow, and do too little, what we did in that unparalleled year. We emancipated the trade of India and China from the

fetters of monopoly, and placed on a new, and solid, and liberal footing the Government of an empire extending over more than seventy millions of our fellow-subjects. We emancipated the slaves in our colonies, giving freedom to 800,000 human beings; an experiment of a magnitude frightful to contemplate, and which would never have been required, if former rulers had betimes taken steps towards the gradual accomplishment of that mighty change; an experiment on the success, and entire success of which I fully reckon; and all the accounts, with a most trifling exception, which have hitherto reached us, strengthen this expectation, but of which, if it be attended with evil and mischief, instead of being crowned with success, I am ready to take on my head singly, if necessary, the undivided responsibility of making the slave free. I hope his freedom will not be attended with mischief either to others or to himself. But his freedom was no longer a matter of choice to the country. Then there was also a reform of what used to be called a great nest of abuse,—only some people, the moment a nest is cleaned out, think no more of it, nor of those who cleaned it, than if it had never existed at all,—I mean that great Court of Equity over which I have the honour unworthily to preside: And that I may not weary you by any long remarks, I will just state, that after having effected the most substantial Reform in the Church Establishment of Ireland, to which I need not further allude at present, (and it is no fault of ours that another reform there has not been accomplished), we closed the session by a measure as great and important as any other that Parliament ever adopted, save and except the great measure of Parliamentary Reform, of which it was the direct and legitimate offspring—I mean the Reform in the constitution of the Scottish Burghs. All this was said to be nothing, and

I have mentioned only five out of ten of those great measures; therefore I am not surprised at hearing people say that we have done less than nothing this last session, because we could not make the slave more free than we then made him; because we could not make the China trade more open than we then made it; because we could not leave the constitution of the Scottish Burghs more open than we left it. A door cannot be more open than when it is flung back to the wall; but all we have done in reform was important as far as it went, and has been continued, by the way, and additions made to it during the last session,—all of which it is convenient for our detractors to overlook. All that we have done this session is nothing fit to be placed in the same line with those other nothings to which I have alluded,—I mean the other little trifling matter of the abolition in England of the Poor Laws; of which you, happily for yourselves, know nothing at all, but which all connected with England know to be the greatest mischief that a country ever groaned under; a mischief to the proprietor, to the middle classes, and absolute ruin and destruction to the poor. We shall go on, heedless of the attacks of those hasty spirits. They are men of great honesty, of much zeal, and of no reflection at all. They would travel towards their object, but they are in such a hurry to set out, and to get three minutes earlier than ourselves, that they will not wait to put the linch-pins into the wheel. They would go on a voyage of discovery to unknown regions, but will not tarry to look whether the compass is on board. When they see the port in view, they will not wait for five minutes to go round by the safe channel to it, but dash in amongst the breakers, and run the vessel ashore. They would construct an edifice, and raise a huge and massy pile; but all they look at is the outside, the appearance, the

mere shell, and they will not take the trouble to see whether there are any partitions to make it useful and comfortable to live in, nor will they use the plummet and the line to ascertain that it is perpendicular, and keep it from tumbling about their ears. I wholly respect their good intentions—I acquit them of all blame of that description. I make them my most respectful obeisance when getting into their carriage; but I do not think it convenient to accompany them. When going on board their vessel, I choose to abide on the shore; and as to taking any share in their building, I will stand at a respectful distance; for it might make an experiment which I would not wish to see tried, either on their heads or my own—I mean in reference to the relative resistance of the two bodies. In plain terms, these are not safe guides nor just judges; and I fear the critics of the measure are no fair critics of any British Ministry; therefore I will go on, and take care to have my vessel in order, and to have my carriage roadworthy, as my ship is seaworthy. I will use the plummet and the square, and build according to rule, and not begin to run up a building which never can be better than a shell, even if it do not tumble about my head; but I will go slowly, safely, and surely to work, till I can build that house substantially.

But if I differ from those persons, not doubting their honesty—if I differ from them, only mistrusting their zeal—I differ a great deal more from another class who are ten thousand times more dangerous. I only differ from the former as to the pace, the speed I go at; but I differ from the others as to the direction in which I am to proceed; for they will either stand stock-still to be safe; or, to avoid all change, they will go to the south when I go to the north; therefore, with them I have an irreconcilable, nay, a radical difference. These men are the most unsafe guides of all. They are so

much afraid of every thing like change, that although they would have improvement, it is at such an immeasurable distance, so far off, that neither their eyes, nor their children's, nor their grandchildren's, will ever be able to discover its approach. Reform is on their lips; they pretend they have no objection to certain reforms; but, as it was formerly remarked, they have a verb "reform" of an odd kind—their verb "reform" is an imperfect verb, which has only got the future tense. They say that all things ought to be done gradually and slowly; and to make sure of their being slowly done, they move on in such a way that the nicest eye in the world cannot discover that they have changed their place.

There is one exertion to which these men have no objection, one sort of movement that they do not dislike at any rate, however rapid; they are glad enough to have an opportunity of moving into mischief by retreating backwards. I never heard of any thing with greater astonishment than what I heard this evening, partly from my noble friend and partly from those around me; the late language of the most fearful, of the most detestable, of the most incredible description, used by the friends of order, the enemies of anarchy, the haters of change,—by those who cry "Revolution" every time that a bill is brought in to correct an acknowledged abuse, or to make the slightest improvement in any part of our institutions—who testify their abhorrence of anarchy, their love of order, and I am afraid I must add, their lust of power and place, which I fear they will never rest satisfied till they have made a blood-thirsty attempt to regain, but which they have lost for ever; I mean the power of misgoverning the King's subjects for their own private ends. I need not add, that all their speculations about the unpopularity of the Reformers, about the approaching and already

begun reaction which my Noble Friend explained, about the repentance in which the people are said to have made some progress, a repentance of having supported the Reform Ministry, and of still clinging by that Ministry, are vain and delusive. I can only say, beside the answer to the doctrine of reaction and repentance which this vast assemblage presents here to-day, that I can tell them most conscientiously and most correctly, that I have not seen one single specimen of reaction all over Scotland, and I have traversed it to within forty miles of John o'Groat's House, and in all directions, Highland and Lowland, agricultural, commercial, and manufacturing. I have not met with one single sample of reaction; and the repentance, if it does exist, hides its head, so that I have not been able to perceive one individual penitent all over the country. Gentlemen, the truth is, that you may guess by the rage of these short-sighted, and I should now say, (from what I have seen this evening,) ill-conditioned and ill-disposed individuals, and disloyal subjects, their discontent and spite arise entirely from mortified hopes, disappointed ambition—from thirst of place, which they cannot slake at the public fountain—and from finding, that though they may cry out about reaction, repentance, and the unpopularity of Reform, if there is any such, at all events they cannot tell where this great unpopularity is to be found; for they cannot pretend that they have anywhere found one single fraction of a fraction of their boasted reaction.

We shall still go on in our course firm, uncompromising, unhesitating, and unflinching. We shall not be hurried on at any other pace than what we deem expedient for the country, and safe for the measures themselves which we are interested in carrying forward. We shall not take to any other counsel on account of any thoughtless clamour proceeding from those impa-

tient quarters to which I have already adverted; but, deliberately devising what we deem just and necessary, safe and expedient measures, we shall defy all opposition from the other and worser class of enemies, those who are against every Reform, and who, if they were left to themselves, would renew over the people the reign of terror, and the empire of midnight darkness. Gentlemen, a very pleasing duty falls on me, which I am sure you will assist me to perform,—that is, rendering to the quarter to which it is so justly due the tribute of our affectionate respect,—I mean, in drinking to our worthy Chairman. The inevitable and much lamented absence, in consequence of ill health, of my Noble Friend, the noble Duke who was to have filled the chair, suddenly and most unexpectedly, at a quarter of an hour's notice, called on Lord Rosebery to supply his place; and I may appeal to every one who hears me, whether they ever saw the duties of that office more admirably performed, even with the greatest preparation. Gentlemen, I beg to propose the health of our noble Chairman.

SPEECH

ON THE

CHANGE OF MINISTRY IN 1834.

DELIVERED IN THE HOUSE OF LORDS,

FEBRUARY 24, 1835,

ON THE

ADDRESS IN ANSWER TO THE KING'S SPEECH.

INTRODUCTION.

CHANGE OF MINISTRY IN 1834.

THE subject of the following speech might have been more fresh in every one's recollection, for it is very recent, had not a very strange line of conduct been pursued by certain parties, both in and out of Parliament, with respect to the Government which the late King dismissed in November 1834, and the Government which he formed in April 1835. In the history of faction there is, perhaps, no second instance of any thing so completely unjust to those concerned as that line of conduct.

The extravagant hopes entertained by the friends of Reform, from the operation of the act passed in 1832, were sure to be disappointed. Very great improvements had been made in the two succeeding years upon almost all our institutions; but still men were not satisfied; and the complaint was that nothing had been accomplished. The abolition (as it was then believed) of Slavery in all our colonies—the opening

of the East India Trade, and destruction of the Company's monopoly—the amendment of the Criminal Laws—vast improvements in the whole Municipal Jurisprudence, both as regards Law and Equity—the settlement of the Bank Charter—the total reform of the Scotch Municipal Corporations—the entire alteration of the Poor Laws—an ample commencement made in reforming the Irish Church, by the abolition of ten bishoprics—all these measures, carried through in two Sessions, were, by some sanguine and impatient spirits, held quite as nothing compared with the vast change which they had expected to be, probably, by some magical operation, performed at once and not in succession; for certain it is that if acts of Parliament could only be passed one at a time, there could no more great measures have been carried than the reformed legislature had adopted in two Sessions. This unreasonable feeling of disappointment, and the unhappy necessity which existed for the Coercion Bill in Ireland, had excited a clamour against the Government of Lord Grey; and when that justly esteemed and venerated individual quitted office, the King had undoubtedly resolved to take advantage of this clamour, and would have at once changed his Ministers, had they given him any opening by hesitating whether or not they should continue to hold the Government after Lord Grey's secession. The declaration, first communicated by the Chancellor in private to his Majesty, and then on the same day made by him in the House of Lords, that the Ministers were quite willing to remain, disconcerted all such designs; and the King could not take the step he so much wished, until Lord

Spencer's death, in the following November, gave, or seemed to give, a kind of ground (or rather a hollow pretext) for accomplishing the same purpose. This was the very worst step, as it was the most inconsiderate, and proved, for his own comfort, the most fatal, that this excellent monarch ever took; and he had been beforehand warned distinctly of the inevitable consequences, but had disregarded the warning.

A new feeling, however, was soon produced among the ultra-liberal party by the change. They plainly saw that they had been, by their clamour against the late Ministers, playing into the hands of the Court and the Tories. They were alarmed at what they had done; and joined heartily with the new Opposition, that is, the ousted Ministry, in measures which soon removed the new Government, restoring, with one or two exceptions, the Ministry of November 1834. When this Ministry was thus re-appointed, those who had, by their impatience and oppositition, driven them from the helm, were all at once found to be the most patient, the most reasonable, the most forbearing, the most tractable and considerate of men. The experience of November 1834 had not been thrown away upon them; and all that they had before urged against the do-little, or the do-nothing policy in England, and the coercive policy in Ireland, was now forgotten, or remembered only to draw invidious distinctions between the Government of Lord Grey, nay, the Government of Lord Melbourne himself, and the new Government of 1835.

It required but little sagacity to discern the real

meaning of all this. Those parties were conscious of having turned out Lord Melbourne in November; they had repented bitterly of their short-sighted and unreasonable conduct towards him; and were resolved on that amendment of life which is always the best fruit of repentance, the surest proof of its being sincere. But their own honour must be saved; they must needs have a pretence for this total change of conduct as well as of language; they had not the manly candour to say, "We were wrong last year, and we suffered for it—henceforth you will find us reasonable." On the contrary, they affected to believe the gross absurdity, that the Lord Melbourne of November was not the Lord Melbourne of May; and they openly and unblushingly averred, that they supported him in 1835 because he and his new Cabinet, composed of the former Cabinet with the addition of Lord Grey's eldest son, were incapable of doing such things towards Ireland as he and that same Cabinet, and Lord Grey himself, with the hearty support of that son, had done in 1833. Assuredly, neither Lord Melbourne, nor Lord Howick, nor, indeed, any of the other Ministers, ever gave countenance to so monstrous an absurdity—so gross and audacious a delusion. But their adherents in all places were most diligent and unremitting in the use of this topic, and it saved the new Government for at least one year, if not longer. Until the death of William IV., indeed, this formed the staple of the Ministerial defence upon all occasions; not by themselves, but by their adherents both in and out of Parliament.

The most invidious distinctions were taken between Lord Grey's Government and Lord Melbourne's. "The latter" (said the 'Edinburgh Review') "looks more honest, and is more vigorous." "We have now a Ministry incapable of pursuing the atrocious policy of 1833," said all the Irish supporters of Lord Melbourne, who had been loudest in the outcry against Lord Grey. "At length we possess the blessing of a Government, for the first time willing to give Ireland justice, and the only Viceroy who ever gave Catholics their due." Such were the topics on which the Government lived out the rest of the late King's reign; disgusting as the food must have been to the palates of those who felt quite conscious of having been Lord Grey's hearty and zealous coadjutors in every one of the measures now most reviled, and his supporters in all the acts of feebleness which the 'Edinburgh Review' discovered, for the first time, when the knell of that noble Earl's power tolled. To these topics were added, of course, the most lavish promises on behalf of the Government, that sweeping reforms would at length be carried into all the departments of Church and of State.

Alas! alas! How are those mighty boasters fallen —those fair hopes blighted! Three years have elapsed, and nothing, absolutely nothing, has been done, except to finish the Municipal Reform begun by Lord Grey. The adverse Court furnished a pretext for two of those three years; but at length the young Queen ascended the throne of her ancestors, and threw herself, absolutely and without any kind of reserve, even as to naming the humblest attendant

upon her Royal Person, into the hands of her Ministers. Did the Government, which had been painted as looking so much more honest than Lord Grey's, and being so much more bold in Reform, *now* use its power to carry great measures of improvement? On the very contrary, they lost not an hour in casting off all fellowship with Reform, and began a course of arbitrary government in some of our colonies, passive acquiescence in the slavery of others, and absolute inaction at home.

But did no one ever assert, in the face of the Ministers, that the pretences on which they were supported were false and hollow? This was unquestionably done more than once. In 1836, Lord Grey drew from Lord Melbourne a distinct avowal, that he had heartily concurred in all that much-venerated Minister's policy towards Ireland. In November 1837, Lord Brougham appealed again to Lord Melbourne on the same point, both when Lord Cloncurry had incautiously said something which seemed to betoken an adoption of the false position that Lord Mulgrave was the first Viceroy who had done equal justice to the different parties in Ireland—and again upon Lord Roden's motion—stating, in Lord Melbourne's presence, that he whom indiscreet advocates were representing as incapable of proposing such a measure as the Coercion Bill, had heartily supported it, nay, "was primarily answerable for it," as the measure proceeded from his own office as Secretary

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[1] Mirror of Parliament, Nov. 27, 1837. P. 172.

for Irish affairs."* But, still more recently, in the last stage of the Irish Poor Law Bill, June 9, 1838, Lord Melbourne admitted most distinctly, that no praise could be too high for the wise, just, and liberal administrations of Lord Wellesley and Lord Anglesey (under both of whom he had himself served as Irish Secretary, and over both of whom he had also acted as Home Secretary), and he only placed Lord Mulgrave's claims to favour upon the ground of his having continued to pursue the same sound and enlightened course with his predecessors. In this view, so fairly taken at length, by way of public disclaimer of the invidious defence now under discussion, and at all times so necessarily repudiated by the whole of the present Ministers, Lord Plunkett, the Irish Chancellor, cordially joined; so that there is an end, and for ever, to the distinction taken between the Grey and the Melbourne Cabinet, between the Wellesley and the Anglesey Viceroyalty and the Mulgrave, upon the grand questions connected with Irish affairs. Justice had also been rendered to Lord Grey in the Commons by Lord John Russell a few days before. When the Appropriation Clause was abandoned, upon the practicability of carrying which he and Lord John had differed, the latter admitted that he now found Lord Grey was right, and himself wrong. Men after this, and indeed after many other changes and surrenders lately witnessed, are prone to ask, why Lord Grey, and, indeed, Lord Stanley and Sir J. Graham, are no longer members of the Whig Cabi-

* These belong to the Home Department, which his Lordship then held.

net? The Edinburgh Reviewer may also be now called upon to reconsider his period about "*looking*" and "*being;*" and to admit that Lord Grey's government not only *looked*, but *was* to the very full as honest as Lord Melbourne's, and no one whit less vigorous either in appearance or in reality.

SPEECH

ON THE

ADDRESS OF THANKS TO HIS MAJESTY.

Lord Brougham.—I have risen, my Lords, thus immediately after the noble Duke,* because I thought that he manifestly misunderstood the sound constitutional proposition of my noble Friend,† and the consequences which flow from it,—namely, that for the dismissal of the late Government—(for, like the noble Duke, I come at once to that measure, and to the dissolution of Parliament, as the grave charges against the present Administration)—the noble Duke, by accepting office on our dismissal, incurred the whole responsibility. This proposition the noble Duke thought that he met, relieving himself from its consequences, by solemnly protesting—and I, for one, my Lords, readily and perfectly believe in the sincerity of that protest—that he knew nothing, previ-

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* Duke of Wellington.

† Viscount Melbourne.

ously, of the circumstances of the dismissal,—that he never had been consulted about the matter—that he was wholly ignorant of the intentions and motions of the Court with regard to it,—and that he had no communication with any such quarter for above two months before the change took place.

The noble Duke was then evidently going on to say that he was "astonished" at the event, when he recollected that astonishment would not be quite consistent with the previous expression of his opinion —an opinion by which the whole question was begged, but an opinion, which the noble Duke represented himself as having all along entertained, in common with the world at large,—that the elevation of Lord Althorp to the Peerage must, at whatever time it occurred, lead to the destruction of the existing Administration. The noble Duke therefore drew back and qualified his astonishment, and, in effect, only stated that he was no further aware of what was about to take place than every one must have been who had heard of the death of Earl Spencer. But he entirely misunderstood the doctrine of constitutional law, on which my noble Friend founded his argument,—that the noble Duke was responsible for the dismissal of the late Government. My noble Friend never asserted that the noble Duke was, *de facto*, the adviser of that dismissal. No such thing! But am I, my Lords, at this time of day, to teach the noble Duke, who has been so long a Cabinet Minister, and who, for three years and a half, was First Lord of the Treasury,—notwithstanding his previous declaration, that he should be insane to think of occupying such a post—(but your Lordships well know that men very often find themselves in situations to which they never aspired; and discharging duties for which

they never could conceive themselves qualified;)—am I, I say, to teach the noble Duke, after all his official experience, that for every act of the Crown some Minister of the Crown is responsible by law, not only although he never counselled it, but although even he was ignorant of that act in point of fact? The proposition of my noble Friend is the simple and constitutional principle, that the King can do no wrong; and, therefore, for what he does, he must have advisers, and consequently responsible advisers. If that be the case with respect to all ordinary acts of the Crown, how much more emphatically must it be the case in reference to an act of such paramount importance as the dismissal of an Administration? Well; the noble Duke stands in this very position. He is peculiarly, he is emphatically responsible for this change of his Majesty's advisers. For such an act, who, in any case, can be responsible but the persons who come into the places of those who are thus turned out? If the King take the seals with one hand from one person, and with the other give them to another person, I defy any man who has read but the A, B, C, of the Constitution, to deny, that he who comes into possession is responsible by law, for the act by which the other has been dispossessed. But he is responsible in fact, as well as in law. The noble Duke has attempted to defend his conduct by reasoning; but, my Lords, I must take leave, with all respect for him, to declare that more inadequate, not to say flimsy, reasoning I have never heard."

"I repeat that the noble Duke is responsible in point of fact, as well as in point of law. Without the noble Duke's assistance, the act of dismissing the late Government could not have been accomplished. If, indeed, instead of being dismissed, the

members of the late Administration had resigned; or if, asked to return, they had declared that they would not come back to their places, that would have been another matter. But if, instead of resigning, they were dismissed against their will, and were not asked to resume office, then those who took office after them became accessaries after the fact to the dismissal; nay, before the fact, and actual accomplices in the fact itself, for, without their acquiescence, that act of dismissal could not have been perfected. If any man to whom the King tenders an office, from which he has dismissed some other man, refuse to accept that office, the Crown is rendered incapable of carrying the dismissal into effect. It is only an inchoate act until the office of the individual dismissed be filled up. The Constitution is so cognisant of this principle, that it has been successfully asserted that even when an individual resigns office, if no person can be found disposed to take it, the individual dismissed, and restored, is still to be considered its possessor, and that without any intermission in consequence of his temporary removal. This was evinced in the well-known case of Mr Pelham. Mr Pelham having resigned the seals of his department, one person after another was applied to by the Crown, in vain, to become his successor; and he was then re-appointed. The question arose whether Mr Pelham, although he had given up the seal of Chancellor of the Exchequer, was not, in consequence of that circumstance, still virtually its possessor? It was discussed in the House of Commons; and it was determined that, as the resignation of Mr Pelham had not been completed by the appointment of a successor, that gentleman was still in possession of the Chancellorship of the Exchequer; that even his again receiving the

seal after he had given it up, could not vacate his seat; nor render necessary a new election, his resignation not having been perfected. My noble Friend, therefore, is perfectly right (as I think I have shown) in maintaining that, both in law and in fact, the noble Duke is responsible for the dismissal of the late Government. There is, in truth, but little substantial difference between the noble Duke and myself; for, regardless of his responsibility, he has, with his usual manliness, defended that dismissal. He has admitted in substance what he may have appeared to deny in terms, and has taken on himself the responsibility in question.

Your Lordships have it now on the noble Duke's own authority, by public and solemn avowal, that he was the chief party in the whole transaction. You have his own positive, distinct, and articulate avowal; and he has assigned the only reason, as he furnished the only means, for changing the late Administration. I see, too, that in the Speech from the Throne, which we have heard this day, all other reasons for the dismissal are excluded for ever, because the grounds for the defence of the late Ministry are laid down in every line in the Speech, which is known and felt to be, as it constitutionally should be, the sole production of his Majesty's responsible advisers. In that document I see, throughout, one prevailing strain; it may have been extorted by the mighty force of truth—it may have been torn forth by the irresistible necessity of the case; but still, one strain of justification, if not of actual panegyric, on all the measures of their predecessors in office, pervades the whole composition. All abroad is tranquil—all abroad is at peace—except in one only spot of earth; this we learn from one passage. All our alliances

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have been strengthened and improved; of this we are informed by another passage. Therefore, except in one case, has there been accomplished that most difficult of all tasks, as it was when we came in proclaimed to be, the maintenance of peace abroad; and that, not for a period of four months, which we were then told would be next to a miracle, but of four years. When I see that this great object has been achieved every where—with the single exception of a little corner of Spain—I am sure that every man must feel that no grounds can have existed for the dismissal of the late Government on account of their Foreign Policy. I think I could tell what kind, liberal hand it was that penned those eulogistic passages—the hand of one who was once in all respects liberal, and who would still, it should seem, retain his kindly and liberal feelings towards all his enemies. When I remember, my Lords, what fell from the present Right Honourable President of the Board of Trade,—formerly my esteemed friend, now my respected adversary,—what fell from him, not in those days when that Right Honourable gentleman discussed the Corn Bill in the other House of Parliament, night after night, with patriotic pertinacity, in exact conformity with the opinions which the mob out of doors held with an obstinacy as pertinacious, if not as patriotic, endangering, out of doors, the life and property of my noble Friend * whom the Right Honourable gentleman only argued and declaimed against within the walls of Parliament—but at a later period, when the Right Honourable gentleman, at the commence-

* Lord Western.

ment of our Administration, declared that, unless by the intervention of a miracle, the tranquillity of Europe could not be maintained for four months; and, when I remember that it has been preserved by that very Administration for four years and a half, I cannot doubt that the eulogy on this subject, which His Majesty's Speech contains, proceeded from that just and liberal quarter, wrung from the President of the Board of Trade by the disappointment of his own prophecy. I cannot but suppose that the Right Honourable gentleman, not in a truant fancy for panegyrising the bygone Administration, but from the strong pressure of truth upon his mind, has made it a point to have those passages inserted, wherein he records our success, and congratulates the country upon the performance of an infinitely greater miracle even than that to which he had looked forward.

This Speech, too, felicitates the country upon the happy results which have attended the Emancipation of the Negroes, upon the settlement of a question in which not only the prosperity, but the very existence, of our colonies was involved. I had wished, I had longed, I had prayed, for this result; but I confess, now that it has arrived, the description of it, in the Speech, surpasses my most sanguine expectations. It comes fully up to my anxious wishes and desires, to find that not only there should have been no mischief, but that there should have been a vast amount of good easily and safely effected by it. Much of this is, undoubtedly, to be attributed to the spirit and capacity of my noble Friend,—whom I ought to have thanked sooner,—the late Governor of Jamaica; much, also, to the admirable arrangements and great talents of the distinguished indivi-

dual who lately filled the office of Secretary of the Colonies; but of these praises, certainly, the Cabinet to which my noble Friend* belonged must have its share, for having considered and digested a measure which had been wrought out with a degree of success that is all but unexampled—crowning our hopes, and surpassing our expectations.

There is another topic touched upon in the Speech, to which I may also naturally be expected to advert. On the subject of the Report on the Municipal Corporations I will say nothing in detail, as it is not now before your Lordships; but I rejoice to hear that Commission spoken of no longer in the terms in which the act of advising the issuing of it was formerly described. The Ministry under whose councils that Commission was issued, are no longer to be represented as spoliators of public and private property. Not much, indeed, is said upon the subject; but, at all events, the Commission is not characterised as one involving a violation of chartered rights, and an unheard-of and unexampled pillage of all property. I thank God that I have lived to see the day when it is acknowledged, not only with the assent, but amidst the unanimous plaudits of the Ministers of the Crown,—that the law upon the subject, as I had laid it down, is the law of the land —that there is no illegality in the Commission which has been issued,—and that I am not liable to impeachment for having advised that great measure. It is true that, from such corporations as Leicester and Norwich, and other haunts of corruption, appeals were made for the preservation of those ancient

* Lord Stanley.

bodies, as the very pillars of the monarchy, and the especial blessings of the Constitution. But all those appeals,—all the denunciations on the subject by learned counsel and more learned recorders, seem to have "vanished into thin air," before the lights which the Cabinet has lately received. Whether their present path had been rendered clear to them before the late dissolution, or was lighted up by the results of the election, or made obvious by what has since occurred—among other things, by the event of the discussion as to who should be the occupant of the Speaker's Chair,—(that brilliant proof of the successful exertions of His Majesty's present Government,—that sweet foretaste of the triumph which the enemies were to enjoy over the friends of reform)—at what time this light first broke in upon His Majesty's Government, I neither understand, nor can I now stop to inquire. It is sufficiently gratifying to find that the present Government approve of that which may be deemed the most important measure, and must be admitted to have been at least one of the most important measures, of the late Administration. I am also entitled to felicitate my noble Friends and myself upon the testimony which the Speech from the Throne bears to the success wherewith our domestic, as well as our foreign and colonial affairs, have been administered during the last four years; nor is there the least exception made against the late advisers of the Crown in reference to the commercial concerns of this great country. The revenues are flourishing,—trade is most prosperous,—congratulations are delivered upon our happy internal state,—and the clearest evidences are afforded of the general prosperity of the country, without a particle of blame being attached to—with-

out the least imaginable imputation being cast on—the policy of the late Government; in both these particulars,—nay, even as tried by the severest test of all, our success,—we are abundantly acquitted.

Such being the character of the Speech from the Throne, such the description of our foreign, domestic, and colonial situation, of our trade and our finances, it is not for a single moment pretended that the dismissal of the late Administration arose from any incapacity on their own parts;—it was for no want of capacity in forming their measures, or of vigour in executing them,—it was not from any want of success attending them,—it was not from any failure of any description, that, on the 14th of last November, the late Administration was dissolved. Then, my Lords, how has the noble Duke opposite endeavoured to account for that dissolution? He tells you that a noble Lord, now a member of this House, had, previously to the month of November, enjoyed, in an eminent degree, the confidence of the late House of Commons. Now, this is an argument which, for my part, I wish to put even more strongly for the noble Duke than he himself has put it. The argument amounts to this—that Lord Althorp possessed, to an unprecedented degree, the confidence of the House of Commons; and it is most undoubtedly true, that there never was bestowed upon any Minister more of the love, the respect, the confidence of the representatives of the people, than was given to the late Chancellor of the Exchequer. The prodigious oratory of Pitt,—the unrivalled eloquence and gigantic powers of every kind possessed by Fox,—the Court favour of Addington,—the long experience of Sir Robert Walpole, and the many high qualities which secured to that Minister such power

in the House of Commons,—failed to realise for any one of those distinguished men any thing like the pre-eminence, in the partiality of the House of Commons, to which Lord Althorp had attained. My Lords, in classing Sir Robert Walpole with those whom I have named before him, I am not giving that Minister more than his deserts: true, he occasionally spoke lightly of matters which, in a purer age—an age of improved political virtue—are looked upon seriously; he has, therefore, laid himself open to the animadversion of those who are not, perhaps, more honest, though they be more decorous; but he was a great Minister, and worthy to be named with the greatest; yet not even he, with all his great services to the Crown, which he saved for the House of Brunswick,—with all the favour he obtained and deserved from the country,—not even he (and not one of his successors, whom I have now ventured to name) ever attained a larger share of the confidence of the House of Commons, than that which was enjoyed by Lord Althorp. If I did not fear that my saying so might be imputed to the influence of private friendship, I would even assert that Lord Althorp personally enjoyed more of the confidence of the House of Commons than any of his predecessors. My Lords, I know that in saying this, I am putting the argument very strongly for the noble Duke—as I said I should—and now, what does it amount to? The noble Duke affirms that, without him, the late Ministry could not go on. By what tenure did they hold their offices? Did they hold them *pour autre vie?* Had they no estate in them, but for the life of another, and that other having no connexion with them? According to the noble Duke, it was not an estate for the life of the King,

nor the life of the Parliament—they did not hold their places during good behaviour, nor during pleasure, nor as long as they were efficient, nor upon condition of their measures being attended with success—not *quamdiu vixerint* or *quamdiu se bene gesserint*—no such thing; it was *quamdiu J. S. vixerit*—they held them, simply, during the natural life of the late Lord Spencer, and no longer—that noble Earl being in the seventy-eigth year of his age. The position contended for on the other side is this, that the moment Lord Spencer ceased to exist, that moment the Administration must cease to exist likewise. The conclusion arrived at is, that because the Commons had so much confidence in the present Earl Spencer, then Lord Althorp, therefore they would have no confidence in any body else, on his retirement—not merely that they trusted him, but that they could trust nobody but him. Upon whose authority does that statement rest? The House must have been surprised to learn that this assertion has been made upon the single authority of Lord Grey; I regret to name him—I regret that his not having yet taken the oaths and his seat permit his being named in this House. I know of no event which I ever more regretted than the resignation of Earl Grey; it was an event which filled me with sincere sorrow when it took place, after the earnest endeavours of Lord Althorp and myself to prevent it. Yet, my Lords, am I delighted to find that one good has resulted from it—(the only good which I feel it possible to conceive, under any circumstances, it could be productive of)—it has caused the noble Duke, of a sudden, to become partial to my noble Friend's policy. Your Lordships cannot fail to have observed, that all at once the noble Earl has become

a great and paramount authority on the other side of the House. He has been spoken of by the noble Duke as "the noble Earl who had so worthily filled the office of Prime Minister," the noble Duke forgetting how often that noble Earl had been charged with nothing less than a scheme of revolution and ruin—how often he had been threatened with impeachment—of what exaggerated accusations he had been made the subject—with what invectives he had been assailed out of doors, and how he had been systematically, and without measure, vituperated for each act of his official life within the walls of this House. What, my Lords? Have we not heard that noble Earl denounced as the author of a revolutionary Bill—as responsible for the revolutionary dissolution of Parliament—as having sown broad cast the seeds of revolution—as having aimed, by means of popular excitement, at the destruction of all legitimate government, the ruin of the House of Lords, and demolition of the monarchy? Yet now, my noble Friend is no longer a rank innovator—no longer a revolutionary schemer; he has become, in a moment, an authority of the highest order, and from which there can be no appeal! All those topics of vituperation—all those causes of animosity—are laid at rest—*pulveris exigui jactu*, as if the event of his removal from the world (far distant, I hope and trust) had already happened. All faults are now buried in oblivion, and my noble Friend's authority is held to be paramount, and, according to the Noble Duke, must decide the question; the argument standing thus—because Lord Grey said that Lord Althorp was the right hand of the Administration, it was therefore instantly concluded that the Government without him could no longer be carried

on. It seems to have been held by the noble Duke that I and my Colleagues were guilty of great presumption in attempting to carry on the Government a moment after Lord Grey had pronounced it to be impossible, which, by the way, he never did. Your Lordships must recollect, that the authority of Lord Grey was quoted on behalf of this most remarkable argument. The noble Duke, resting on Lord Grey's *dictum*, says :—

"I was right in taking the responsibility of changing the Government, and in advising the Crown to make me and my Right Honourable Friend succeed the late Administration, because I had Lord Grey's opinion distinctly declared that they could not go on."

How strongly does such a mode of discussion remind me of the way in which texts of Scripture are quoted and twisted to serve the temporary purpose of an argument! Now, if the authority of the noble Lord is good for any thing, it is equally good throughout—if wise, he could not be wise on one question only, and of no value upon all the others. If the noble Duke may quote him, so may I. The noble Duke is vastly ready to quote my noble Friend when his words help him to turn us out and take our places. When my noble Friend's name serves the purpose of the other side, they deify it; but if his name be made to serve the purposes of one side of the House, why not those of the other? I shall most unhesitatingly use the authority of my noble Friend also. I shall quote Lord Grey's authority to your Lordships repeatedly this Session. I, for one, shall not allow that there is a "single exception" (to cite the words of the Speech) "to the general tranquillity" which prevails, and to the

alliance which has been cemented between the argument of the noble Duke and the authority of Earl Grey—

[The Noble and Learned Lord was reminded by the DUKE OF WELLINGTON of something he had omitted.]

LORD BROUGHAM.—I will speak to that; let not the noble Duke be alarmed. The noble Duke may be alarmed at many things—he may be alarmed at the state of the House of Commons—at the vote, for example, to which it came the other night—

THE DUKE OF WELLINGTON.—Not at all. It was not of that moment which has been attributed to it.

LORD BROUGHAM.—Ay, I dare say that the noble Duke rather liked it; and if the Address be rejected by a larger majority than voted on that occasion, he will, of course, like it much better. If a majority of ten was a pleasant thing, a majority against him of forty must be four times as good. But let not the noble Duke be alarmed at my passing over for the present the part of the argument to which allusion has been made.—I shall, with your Lordships' permission, come to it, but I must take my own time. To resume, however, the course of my observations —I was about to quote Lord Grey when I was interrupted. The noble Duke will only use Lord Grey's authority when it will operate to justify the turning out of the late Ministry and the coming into office of the present Ministry. Now, Lord Grey is every thing with the noble Duke and his supporters—he is their glory, their *decus et tutamen;* but the moment I shall remind the noble Duke of another expression of Lord Grey's, I have no doubt he will break the image of his god, and cast it from him.

It is fit, then, that I remind the House of what

the noble Earl said in the presence of 2800 persons who heard his declaration, and by whom it was echoed with vehement applause. At that time be it remembered that Earl Spencer was three months older than on the occasion when Earl Grey spoke of Lord Althorp as the right hand of the Administration. I should not have ventured alone to quote this authority, had not the noble Duke already made it his oracle. The partiality of friendship might be thought to lead me too far. But the noble Duke has set me the example; he has bottomed his justification of all that has taken place on the authority and words of Lord Grey; and I, myself, am therefore justified in using the language of the same eminent individual. Now, he spoke to this effect in the month of September last year:—"These Tories, who are now ashamed of their name, who choose to shelter themselves under the new title of Conservatives"—I think, my Lords, that these, or something like these, were my noble Friend's expressions. I hope that the noble Lords opposite are not ashamed of their new name,—I see nothing wrong in it. I believe that they will continue to be Conservatives, notwithstanding their present reforming mood; and that, when they come to particulars, they will be found as much anti-reformers as ever. "These Tories," said Lord Grey, "do they fancy that they can take the Government of the country in their hands?—let them only try it." I plainly perceive, from the movement of the noble Lords opposite, that they are ready to argue that this phrase of Lord Grey's was an advice given to them that they should take the Government. If they were to advance that as a reason for the course which they have pursued, I must admit that it would be a much

better reason—a much more logical one than that adduced by the noble Duke; at least, it would be quite of a piece with the argument by which it is attempted to make my noble friend near me * responsible for the change of the Government, because he allowed his servant to bring a letter to town in which there was enclosed another letter to the noble Duke, unknown to my noble friend.

[Cries of "No!" "No!" from the Ministerial side.]

Lord Brougham.—But I say "Yes." That was the statement given by my noble friend,—that Sir Herbert Taylor asked him, when he was leaving Brighton, if he would allow his servant to take a letter to Sir Henry Wheatley? To which my noble friend answered, that he could have no objection; and that circumstance, it appears, is to make my noble friend liable for what was contained in the letter, of which he could know nothing; and this is given as a proof that my noble friend could not go on with the Government, and was anxious that the noble Duke should turn him out. The expression of Lord Grey's which I was just quoting is, however, as good authority as that adduced by the noble Duke; and what were his words? "They take the Government!"—alluding to the Tories or Conservatives; "let them try it, and they will see what the country will do—what the House of Commons will do;" and then Lord Grey proceeded to give his reasons for considering such an event—an event in his view so calamitous—as absolutely, hopelessly, and ridiculously impossible.

My Lords, I trust that after what I have said

* Viscount Melbourne.

respecting my noble friend's services in the House of Commons, of the rank which he held in the confidence of his fellow-members (all of which Lord Grey by no means overrated when he spoke of his retirement), and after stating, what I ought to have added before, that if it were possible for him to have had a more cordial support out of doors than he enjoyed within the walls of Parliament, that support Lord Althorp did possess,—that he was the idol of his countrymen, as he was the most approved and confidential servant of the Crown in the House of Commons;—I trust that no man will accuse me, no man will suspect me, of underrating the importance of the loss which the late Government sustained in the noble Lord's removal hither on occasion of Lord Spencer's unfortunate, but in no wise unexpected decease. We had looked early to that event—repeatedly we had our attention called to it—long before the public were aware of Lord Spencer's serious illness, we had canvassed it, and regarded it in all points of view; we had contemplated all its probable results, and no one can doubt that as men of prudence—of ordinary prudence—in regard to the management of our own concerns, his Majesty's late Ministers must have felt, as they did feel, most deeply the loss of Lord Althorp—not a total loss, such as the noble Duke seems to think, and which alone would have made the present case similar to that adverted to by Lord Grey, but simply the loss of his services in the House of Commons, occasioned by his being removed from that House, and transferred to this. But had it been the loss of Lord Althorp to the Cabinet altogether, I am prepared to state, that even great as it would have been to us, individually, as his colleagues, and also to the King's service and the

country, we were ready to meet the exigency of the occasion which must from thence have arisen; and we were prepared, without his great assistance, to have carried on his Majesty's Government. On this subject there was no hesitation,—on this point there was no doubt,—on this resolution there was no difference of opinion,—and still worse (for it is still falser—"if falser thing than false can be"), they who have represented, who have dared to represent, in the face of the fact, which all concerned intimately and thoroughly know, that my noble friend ever expressed to his Majesty a shadow of a doubt of being able to go on with the Government, if his Majesty chose to continue him in it; those persons, I say, if they have been deceived, have been grossly deceived,—if they have fancied what they have asserted, they have imaginations approaching to unsoundness of mind,—if they have invented it, then, I know no language in which, in the presence of your Lordships, I could venture to express my opinion of their bad faith. My belief is, that those inventions, be they fictions of the brain, or be they the fabrications of falsehood, or be they the errors arising in the ordinary progress of a tale, in which, from the little additions that each tale-bearer makes, being himself the bearer of a part and the inventor of the residue, the responsibility is so divided that it is difficult to say where the fabrication takes place; whatever be their source, my belief is, that they all arose in London; and that not a shadow, not a vestige, not a colour of a pretext for the fable has been ever afforded from any quarter out of the city in which I am now addressing your Lordships. What, then, becomes of the argument, that the King was obliged to break up the late Government, because those who

advised him so to do, always thought that if Lord Althorp went from the House of Commons, that Government could not go on; and because they chose to say, "though it did continue to go on, that it ought not to have done so;" and that Lord Grey had predicted it could not do so, under totally different circumstances, and alluding to a perfectly different event, the loss of Lord Althorp to the Cabinet.

The noble Duke asks, however, "Were not other persons as well as Lord Grey to judge of the effects of Lord Althorp's removal—was the King himself not to judge?" I am perfectly ready to meet the noble Duke on the point involved in that observation; it is, indeed, my Lords, one essential to the present question,—I mean the nature of the Crown's prerogative of choosing and changing its servants. It is the undoubted, the unquestioned, power of the Crown to do so: that I set out with; but let us examine what is the meaning of this proposition, in order to apply it, and let us see how that prerogative is founded, in order to perceive how it is limited. In every State, the public service must be provided for, and officers must be appointed by some one. Our Constitution—that of a limited and hereditary monarchy—will not allow the principle, generally speaking, of election, either as regards the highest office of all, or as regards the inferior offices of the Ministry; descent provides for the one, selection for the other; and, accordingly, in some one power of the State, the nomination to those offices must be vested. In whom is it vested? In the King. But it is a power exercised for the good of the people; it is not to be dealt with capriciously—it is not to be used as an amusement—it is not to be played with

—not to be employed as a man would the power which he has of sending off one servant without notice, to gratify his own whims, and choosing another. A man might exercise this power of arbitrary dismissal if he pleased, and he would be the worse served; he would be the loser; but he alone would be the injured party; his interest alone would suffer. But the King holds the power in question, not for his own gratification—not at all for his own purposes. It is not he that is to be injured or to be benefited by the exercise of it. He is not a party to the risk—he is not a party to the gain or to the loss attendant on the exercise of the power—he is a trustee—he is himself a public servant—he is appointed and empowered for the benefit of his people. The trust which he exercised is wholly for their sake. It is not because some one should say, "Turn out this person and get another," that his power is therefore to be put in operation. He is not to place and displace his servants, because somebody may say—"Lord This is better than Lord That," or because somebody else may cry—"Oh! do turn out these men, and just let us have the Duke again." That is not the theory of the Constitution—that is not the condition on which the power exists—that is not the tenure by which the power is holden. So long as this power is exercised as it ought to be, it will be safely holden; and no one would think of questioning its foundation, or objecting to its existence, or of wishing to restrict it; but it must be exercised soundly, publicly, and on stateable grounds. No Sovereign of this country has a right by the Constitution—(and your Lordships will be pleased to observe, that in speaking of the Sovereign, I speak, of course, only of his advisers, using his name merely

to avoid circumlocution; and in reference to the present occasion, be it always remembered that those who succeeded my noble friend were, in point of fact, and of constitutional law, the advisers of the Crown, as I have already shown;)—the Sovereign, I say, has no right—by the Constitution it is illegal—it is prohibited to the Crown—it is a wrong, an unlawful, a criminal act—to exercise that high function of dismissing its Ministers and choosing others, unless on grounds capable of being stated and defended. Now, my Lords, I ask, in what way has this prerogative been exercised on the present occasion? First, it has been exercised while Parliament was not sitting. In what manner has the prerogative been similarly exercised on former occasions? Since the Revolution there have occurred, I believe, but two instances of the Ministry being changed while Parliament was not sitting: both were in the reign of King George III. One of them, in the year 1765, was a dismissal of Ministers after the prorogation of Parliament, in consequence of a quarrel with Mr George Grenville respecting the Regency Bill. The other case of dismissal was that of the first Rockingham Administration, in 1766; which having been formed while Parliament was prorogued, was dissolved likewise in vacation; and in both of those instances there was much of that kingcraft which George III. began early, and practised late. These cases were not similar to the present; in each of them there was a distinct difference between the King and his Servants; a difference irreconcilable—not one of a merely personal nature, but one of principle; and there was also this circumstance, in the latter instance—that it was then thought desirable to secure to the Crown and

the country the services of the great William Pitt, Earl of Chatham. It may be true, that there are those who think that celebrated man may be paralleled in the present day, and that some such motive existed now; though, for my part, I know not who their Chatham can be. Be that, however, as it may, Lord Chatham took an earldom, and left the House of Commons, which no one ever did voluntarily, without bitterly rueing the step, when he found the price paid to be the loss of all real power. Accordingly, the great Prime Minister was soon turned out; the King was advised to take advantage of his want of weight; his well-known Administration, which Burke has described as "a piece of tesselated pavement, with here a bit of black, and there a patch of white," was soon broken up. I hold, my Lords, that if it ever becomes necessary to dismiss a Ministry in vacation—and I would not go the length of saying that such an occasion may not arise,—Parliament ought to be assembled immediately.

I will now defy my opponents to give—unless in the times of the Tudors or of the Stuarts—a single instance where there has been any great ministerial change, otherwise than on assignable, constitutional, and public grounds. If Ministers resigned, that was a sufficient cause. If they were torn among themselves by endless dissensions—if they differed from the Sovereign,—if they differed from the country at large,—if their measures were evidently ruinous,—if dishonour abroad and disaster at home marked the whole tenour of their government,—any of these might have been constitutional grounds of dismissal; —and, above all, if there happened to be a general feeling of distrust and disapprobation throughout the country; that would form a sufficient ground for such

a procedure. But I confidently ask your Lordships whether any one of these reasons, or any particle of any one of them, applies, in the slightest possible degree, to the present case? The King's Speech answers the question decisively, so far as regards any difference between the late Ministry and the country, and so far as regards the merits and the success of measures, ecclesiastical or civil, and whether connected with the administration of affairs at home or abroad. As to any difference among the members of that Ministry, I will say, my Lords, that, from the change which took place when the Administration of the noble Viscount was first formed, till it went out, there never was the shadow of the shade of a difference of opinion among them, even as to matters of detail. There was no one point of disagreement in regard to any line of policy—no one instance of hesitation in any one person respecting the opinion formed by another. Difference with the Sovereign there was none; no question had arisen which could occasion any such disagreement.

Thus, then, not any one of the reasons which I have enumerated existed for changing the late Ministry. I have stated that George III. was a Sovereign well practised in making and changing Administrations; and that measure of experience which had been so little in 1766, and which being so limited, led him in those days to commit some errors, forty years afterwards (that is, in 1806), combined with the lesson of the American war, and its necessary consequences, induced him to adopt a prudent and successful course, being then advised by the friends of the present Cabinet, by a noble and learned Lord* now in this House, by the late

* Lord Eldon.

Lord Liverpool, the late Lord Londonderry, then Lord Castlereagh, by Mr Perceval, Mr Canning,—all of whom succeeded the Administration which was then turned out. What took place on that memorable occasion, puts the stamp of authority on all I have stated, and vindicates the opinion I have expressed of the limits within which the King's prerogative should be exercised of dismissing his Ministers. Observe the course pursued by George III. The Ministry was not dismissed without tangible and producible reasons; and it was dismissed during the sitting of Parliament. There never was a greater desire entertained, either at Court, or by a party—the Conservative party, then called Tories—to get rid of a Government, than there was to get rid of the Government of the Whigs, after the death of Mr Fox,—and all the parties well knew, no doubt, the importance of that extraordinary man to his Administration. But how differently were things done then, by wiser men, and in better times! The Whig Administration had no favour at Court; the King's favour they had certainly not enjoyed since the Coalition in 1784, nor had they, I presume, the favour of the Tory courtiers. Well, Mr Fox died on the 13th of September, 1806, there being ample notice of his approaching end for two months before, in consequence of the operation he was obliged to undergo. There was no hurry,—neither public nor secret advisers, nor illustrious dukes were taken by surprise. Did his Majesty then, on the 14th of September, on the death of Mr Fox, act as his present Majesty on the 14th of November last was advised to do on the death of Earl Spencer? Did those great statesmen who counselled George III.—experienced, sage, eminent, and discreet men as they were,—so well

versed in the theory and practice of the Constitution, so skilled withal in the arts of Cabinet-making,—ever think of advising him, because Mr Fox was dead, instantly to turn out the Whig Administration? No such thing; no such advice was given: the Ministers were allowed to remain in office till the end of March following; not from any want of inclination to turn them out—on the contrary, there was every inclination steadily, unremittingly, uninterruptedly manifested, to employ any opportunity that could be taken advantage of for dismissing them; but they were allowed to remain in office six months longer, because the Constitution would not allow them to be turned out without some assignable cause. Nay, the King even allowed them to dissolve the Parliament after the death of Mr Fox, although he very plainly must have foreseen that a second dissolution would thus be soon rendered necessary; and he only removed them in March, when the Catholic question occurred to create a disagreement. Such, however, is not the course which his present Majesty has been advised to pursue. It is thought that an opportunity offered, through the loss of Lord Althorp, for turning the late Government out, although no charge whatever had been urged against them,—although no difference of opinion upon any question existed among themselves—no disagreement with their Royal Master—and although they were still prepared satisfactorily to go on conducting the Government of the country.

I now, my Lords, approach another part of the proceedings; the dissolution of Parliament which followed. And here I cannot but crave your attention to the gross, glaring, and almost incredible inconsistency of the argument of the noble Duke; I

do protest, that if I had not heard it with my own ears, I could not have believed that such an argument would be hazarded. "The Ministers" (says the noble Duke) "were turned out because Lord Althorp was taken from the House of Commons." That was his argument. After Lord Althorp, who so deservedly and so eminently possessed the confidence of the Commons, left the Lower House of Parliament, what reason, argues the noble Duke, had the noble Lord* to believe that the House of Commons would continue their confidence under another leader? "Therefore," he says, "the late Ministry was dissolved." Crippled as they were by the loss of Lord Althorp, the Commons could no longer confide in them. That is the noble Duke's reason. But then, unfortunately, the next thing he did was to dissolve the House of Commons too. "I turn out the Ministers," says the noble Duke, "because the loss of Lord Althorp will prevent the House of Commons from following the Ministry enough; and then I turn out that same House of Commons itself, because it would follow them too much, though they have lost Lord Althorp." There is, in truth, but one reason for turning out that House of Commons. You may disguise it as you will—you may wrap it up in boisterous expressions—you may cover it over with flimsy pretexts—you may turn periods upon it in the Speech and in the Address, and then follow them up, in debate, with a cloud of similar periods, endeavouring, as it were with smoke, to veil it from our eyes: but we pierce through the cloud—we blow it away—we know that there could be but one reason for turning out the late House of Commons. And what was that? That it did not

* Viscount Melbourne.

confide sufficiently in the late Ministers? That the late Ministers had lost the confidence of the House of Commons, having lost Lord Althorp? Oh, no, no! But the late Ministers still had the confidence of the House of Commons, though they had lost the inestimable services of Lord Althorp; and that House the new Ministers would not allow to remain, because they knew what its first vote would be,—not that it could not follow the late Ministers, but that, though it regretted the loss of Lord Althorp, it would still confide and trust in them. My Lords, men ought to be consistent in their pretences—if I am forced so to term their arguments. The *ratio suasoria* and the *ratio justifica* are not always the same: the one is often found to be utterly irreconcilable with the other. But when men put forward a justifying argument, they should take care, at least, that it is not grossly irreconcilable with their conduct; for this discrepancy is like a rent through which the real reason is descried. The noble Duke and those who support him might have argued, that the loss of Lord Althorp to the House of Commons caused the change of Ministry, because the Commons would no longer support the Government; they might have rested on that ground; but when the noble Duke follows up that change by dissolving the House of Commons, there is an end at once of the whole reason; it merely occupies the place of a pretext, and cannot for one moment deceive any man of sound and sober logical understanding. To I now come, my Lords, in the natural course of the argument, to the Ministers who have succeeded the late Government, and to the grounds on which the noble Duke expects the confidence of the country. He says that the course which he has pursued, of dissolving Parliament, is to be justified by

the event, and he has expressed a hope of still enjoying the support of the new House of Commons. He looks upon my noble friend* as very unreasonable, for calling on him to take the experience of this the first night of the Session, as a test of success. The test has been, however, applied, and I will venture to say, in the most remarkable manner ever recorded. I have never heard of any one instance since the Revolution of 1688, in which the Minister was defeated on the first day of the new Parliament to which he had appealed, after "recurring," as the King's Speech expresses it, "to the sense of the people." I suppose that the sense of the people is to be obtained by the votes of their representatives assembled in Parliament; and the sense of the people has been now in this way shown, by leaving the present Ministers in a minority, on the very day of the return of the writs, upon the question who should be Speaker. But there is a strong ground, it seems, why the present Ministers should enjoy the confidence of the people. They are, all of a sudden, now become —though ex-Tories and Conservatives formerly— Reformers; and we are told that if we are consistent, we ought to second the Address; that if we really wish for reform, and for good measures, we ought to give countenance and support to the present Government, for they are as good Reformers as ourselves. Since when? Is it, my Lords, since the *testé* of the writs, or since the result of the elections; or has it been, peradventure, since the vote with Mr Ley in the Chair, when they saw the minority in which they stood? When, I ask, did the reforming spirit come upon this Government? They are now for

* Viscount Melbourne.

reform in Corporations—in the Law—in the Church—in the State—in Tithes—and in the Law of Marriages. They are going to make marriage a civil contract, and to abolish all banns, for the sake of the Dissenters. All these things we are to have from those who, a few months ago, would not listen to any reform,—who told us that, in proposing it, we were pulling down the Church about our ears,—who inveighed against us as revolutionists—who challenged us as rebels,—who exclaimed that we had either fools' heads on our shoulders or traitors' hearts in our bosoms. Since when, I repeat, has this miraculous conversion taken place?—whence has it been derived? My Lords, I hope that my experience of men has not made me too distrustful of their good intentions, or induced me to entertain a worse opinion of the honesty of my fellow-creatures than I ought to cherish. I hope that, having lived so long in the world as I unfortunately have, I have not therefore arrived at an unkindly or uncharitable estimate of their honesty. It is, however, a result not more perhaps of reason and experience, than of a sort of instinct which I have in me—an instinct which I believe to be a property of our common nature—that I feel an invincible mistrust of sudden, unaccountable, miraculous conversions. That men should at once—from being the enemies of reform—from being the opposers of all improvements—from being the vituperators of all change—from being those who confounded reform with revolution, anarchy, disaffection,—with political insanity, if not the worst political depravity—who would not touch any of the outworks of our venerable institutions of Church or State—who signalised their opinions, year after year, by uninterrupted, unabated, and pertinacious hosti-

lity to all species of reform—regarding it as synonymous with destruction—whose conduct has recorded their opinions in the eyes of the world, and whose speeches have rung it in all our ears—whose protests have stigmatised reform in worse language than I have to use—for I cannot forget the invectives against it with which they have so often loaded your Lordships' journals—that these men should all at once, on the 14th of November, in the year of Grace, 1834, without any intermediate event happening — any change of public affairs—with nothing but twenty-four hours' experience added to their former stock—without any time given for reflection, except what elapsed between the opening and the reading of the letter enclosed to Sir Henry Wheatley, and brought by the servant of my noble Friend—without being allowed

—— spatium requiemque dolori;

having no time to mourn over the destruction of our venerable institutions, to grieve over the loss of former opinions, to balance conflicting emotions, and weep over the cruel reflection that that ruin was to be all the work of their own hands—that these men should all at once become Reformers,—this, my Lords, does appear to me (I use not a harsh, but a very temperate expression) one of the most unaccountable phenomena in human nature which I was ever yet called on, either as a statesman, as a philosopher, or as a man of the world, to contemplate. But it is said, "You may trust us in our conversion—this is not the first time we have changed our opinions, and sacrificed our principles, and become converts, in twenty-four hours, to the faith of our opponents." That is, it seems, their title to trust! The people have been appealed to, and they have stated the amount of confidence they are inclined to

repose in the new Government. The noble Duke has appealed to your Lordships, I suppose, on the same grounds on which the appeal was made to the country. These Ministers say to the people anxious for reform, "Oh, you may well trust us; you may be sure that we are really converted—because we did the same thing before with the Catholic question. Could any men," they ask, "be more strenuous in their opposition to Emancipation than we had been for thirty long years? Which of us for ever opposed reform more bitterly than all of us did toleration? Trust us, then, that we shall change our principles now as completely as we did then." To be sure, this is an odd kind of ground upon which to claim trust and confidence. Nevertheless, I cannot deny the facts. No doubt they were vehement in their opposition to the Emancipation within a few months of their bringing forward the measure themselves. I can bear witness to their zeal. I well recollect hearing the noble Duke and the noble and learned Lord on the Woolsack*—my predecessor, as he is my successor there—vying with each other, late in the Session of 1828, in their resistance to that great measure of policy and justice; and arguing, each in his several manner, that to repeal the penal code, was to destroy our Protestant Constitution in Church and in State. This was the view of both, at the end of one Session; and they both opened the very next Session, with declaring that the self-same measure of destruction to the State, must be carried, because it was necessary to save the existence of the State; and further, that theirs must be the hands to carry it through, because none but themselves could do the deed. To be sure, they begged the question here—

* Lord Lyndhurst.

as, indeed, the noble Duke does on all occasions; it is the mode of argument by which he is uniformly and plainly distinguished. Others have recourse to it more covertly—using it with temperance—skilfully, dexterously, eloquently—I should perhaps rather say oratorically—for the noble Duke is eloquent—but, bred in other pursuits, he is not rhetorical. In them the method is always recognised, though often with some difficulty, as a begging of the question. They are like the whining, coaxing, cunning mendicants, who often gain their point before we are aware of their arts: of this sort is the noble and learned Lord. The noble Duke goes to work more roundly—less artfully; he speaks out plainly and bluntly; he begs the question stoutly—what the law calls sturdily; but, though sturdy, he is still a beggar of the question all the same. Thus, to-night he tells us, "It was clear, every one knows, you could not go on without Lord Althorp in the Commons; therefore, it is proved, that on Lord Spencer's death, the Government was at an end:" and so, too, in 1828 and 1829, he and the noble and learned Lord, each after his several kind, assumed at one time, that Emancipation was ruin, and that they were bound to prevent it; at another, that it was salvation, and they were bound to effect it, and no one else could do so.

My Lords, I know how some of you will be trying to answer me,—I know it by experience of this House. By the self-same species of logic, when the arguments cannot be repelled, or the statements denied, it is thought more convenient, and it is no doubt more easy to say,—"Oh, we have heard a very amusing speech." That is oftentimes said when I have ex-

posed some ridiculous sophistry to the satisfaction of your Lordships, however I might fail to gain your voices upon the exposure. When your Lordships have been made sensible of the absurdity of reasonings too flimsy to bear handling,—the grossness of pretences too hollow to stand a single glance—the glaring inconsistency of men's stories with each other —and the astonishing repugnancy of their conduct with their professions of principle—when the complete sense of such discrepancies, such self-contradictions, has forced itself on your minds, and you have felt the force of this unquestionable truth, that manifest error in argument and utter abandonment of principles in conduct become ludicrous if pushed to excess—and when I have, perchance, assisted you in arriving at the clear view of such mistakes and such misconduct which clothes the sense of truth and of honesty in ridicule of their opposites, *ridentem dicere verum*, then a feeble, a pitiable attempt is frequently made at defence, and it ends in saying that the exposition was amusing. Amusing to the parties exposed, I have not frequently observed it to prove.

In 1828, I was proceeding to say, I well recollect the speeches of two noble Lords against emancipation. The noble Duke's was far less violent against the measure; the noble and learned Lord was, in point of vehemence, complete: that both had equal success I will not assert. There is nothing of which I retain a livelier recollection than the inferior impression made by the noble and learned Lord. The opinions he then urged—the alarms he expressed —the fate he foretold to our Protestant Establishment from the grant of toleration, I well remember drew forth the deepest expression of astonishment

unmingled with admiration, from all who heard him, and who had been taught to expect so different a result of his former liberal and enlightened principles. Even as samples of speaking and of reasoning, neither being remarkably excellent in argument, the Duke so entirely eclipsed the Chancellor, that I felt for the credit of our common profession at seeing the soldier outdo the lawyer in his own line. But whatever might be the relative success in resisting the question then, their conversion to it was equally complete a few months after. The noble and learned Lord was among the most nimble in that quick movement of sudden transition. He vaulted in good company —a Right Honourable Baronet,* the nominal head of the present Ministry, as the noble Duke is its real chief, and a distinguished friend of his and of the Establishment,† had with others been long known for their unremitting efforts against the measure, proportioned to their ardent zeal in behalf of the Protestant cause, whose great champions they were admitted to be, and by whose support they had risen to power—all of them, noble dukes, learned lords, worthy baronets, and honourable gentlemen—all came round, or rather rushed over at once, and not only agreed to the measure of Emancipation, not only withdrew their opposition, but tendered their services to carry it through, and were actually the men who did it. Now, this passage of their lives is what their friends appeal to with exultation and pride upon the present occasion, crying out—"Only see what men they are! Can you doubt they will reform by wholesale? What avail all their professions and pledges? True it is that no politicians ever pledged

* Sir Robert Peel. † Mr Goulburn.

themselves so solemnly against all reform—true, that none ever so deeply committed themselves against all change—true, that none, at all times since the dawn of their public lives, ever thwarted so habitually, so pertinaciously, each measure of improvement, until beaten by majorities of the Commons. But never mind—don't doubt them—they are capable of doing again what they did before—by deserting all their old supporters, abandoning all their former principles, becoming converts in four-and-twenty hours to the faith of their adversaries, and carrying into execution, with the proverbial zeal of recent conversion, all the measures to resist which they had devoted their past lives."—Such is the argument urged in support of the present Ministry, and to make out their title to the confidence of the country. I do not deny that there is a great deal in it—I do not question that it has an immediate bearing upon the question of confidence; it seems to me that it does go a great way, indeed, to settle that question, and to decide for ever what trust they are worthy of. But let the appeal for confidence on such grounds as these not be made to us—go make it to their old allies, the enemies of the Catholic question—let them appeal to the noble Baron on the upper bench,* who does not so easily change his opinions—to the noble Earl near him,† who sticks by his principles though abandoned by his political leaders—to the illustrious Duke opposite.‡ Those noble and consistent persons have had experience of the present Ministers; they have tried them; they know what they are made of; they can form—per-

* Lord Kenyon † Lord Mansfield.
‡ Duke of Cumberland.

haps they have formed,—an estimate of their trustworthiness from recollection of their past conduct; and to these noble persons I refer all who prefer a claim to support upon the ground of that conduct. But for me, my Lords, I am not to be duped a second time by such pretensions. Let me not be misunderstood; there was a time when I viewed the conduct of these no-Popery converts with other feelings—I rejoiced sincerely in their conversion to the opinions which I had always maintained. But I now confess—and I am bound to state this qualification of my former opinion—I freely confess that I was a dupe on that occasion. Not on the Catholic question, on which my opinions never varied—not on the excellence of that measure, though unhappily too long delayed to produce its full effect,—delayed until it had no grace of voluntary concession, and every semblance of being extorted by force,—still I hailed it with delight; but I am bound to retract the assent I then justly and fairly gave to the defence urged by those Noble and Right Honourable persons who had brought it forward, for the sudden and (as their adversaries said) most unaccountable, most suspicious change of opinion. Themselves said they had become convinced that Emancipation was necessary in order to save the State. I had never doubted that; but they declared that they had at length arrived at a knowledge of its truth; and they added, that no persons could carry the measure except themselves; and that they retained office solely in order to carry it into effect. Not that they had changed their opinions to keep their places; but that in their places, they, changing their policy, could, and alone could, carry that measure which, at the eleventh hour, they had discovered to be

necessary to the safety of the empire. I listened candidly, and not only candidly, but willingly, to that excuse. Anxious for the success of the measure, I did all I could to further it; and, in fact, I did more than I could be called on to do, as a party man, upon that occasion. No doubt it is said that Whig leaders are always factious, and look only to the turning out of a rival party; but I will venture now to make this statement, which I have never made in public before—that the late Mr Huskisson and myself, at five o'clock on a Thursday evening—a very remarkable day in the recollection of some present (seeing that they were said to have been then dismissed from his Majesty's service on account of the Catholic question)—we, having had the statement of what was going on at Windsor, purposely communicated to us by a friend still living, and in a high station, took our measures accordingly. Mr Huskisson, with that honest love of truth and steady devotion to whatever line of policy he thought it his duty to pursue, which ever marked his course, got up in his place,—myself acting in concert with him,—both took occasion to make avowals in Parliament for the purpose of its being known elsewhere, and preventing the dismissal then contemplated—avowals which proved that no power on earth could induce either of us to take office, or be accessory to any arrangement for succeeding those who were about to be expelled on account of the Catholic Bill. I felt then, as I do now, and have already declared,—that the individual who takes an office from which another Minister has been removed, in law and in fact, renders himself responsible for the dismissal, and on that principle I acted. I showed plainly that I should refuse to take office, and announced

that office would be offered to me in vain, because I knew that no man could then be accessory to any new Ministerial arrangement, without incurring, by that fact, the fearful responsibility of producing remediless evil to the State. I knew that office would have been offered, not so as to render us odious in the eyes of all men if we accepted—not on the condition of abandoning our principles, —not that we should succeed those who insisted on carrying the question in order to prevent it being carried,—no such thing,—but I knew if office were tendered at all, with what professions it would be offered. It would not be asked of me that I should come into office, and be disgraced for ever by the sacrifice of my principles. It would be offered in the same way as I know it was threatened to be offered when that most disgraceful of all proceedings, the Princess of Wales's affair, was to be forced upon the Ministry,—and I should be told that I need not give up my principles, and that we could carry that great measure instead of our adversaries. I, however, would be a party to no arrangement which would have the effect of removing that Government from office upon any such grounds. I steadfastly and decidedly declared that determination, and the illustrious Duke and the noble Lord kept their places to carry that measure which they felt to be indispensable for the safety of the empire, and which they said they felt also that they could most effectually carry. Their conduct at least was suspicious—it was surrounded with equivocal circumstances. All appearances, all facts were clearly against them; and suggestion, and argument, and declaration only for them. There is, in truth, always cause for suspi-

cion when there is a sudden and an unaccountable change of principle, and reverse of conduct.

It is always suspicious when people change their principle and gain something—although, certainly, it may be a proof, in some cases, of magnanimity and honest devotion to the public wellbeing. But that is a case which should occur only once in a statesman's life. A man may once get himself into that false position—he may once expose himself with impunity to such a load of suspicion; but he must beware of trying such an experiment a second time; for assuredly, no weight of reputation, no amount of public service, would ever enable any one with impunity to play the same game twice. At all events, circumstances are now materially changed; and if the noble Duke thought he alone could carry the Emancipation Bill before, by remaining in office, and was therefore justified in resolving to carry it, assuredly he is not the only one who, in the opinion of the country, is competent now to carry into operation the principles of Reform. There might, in fact, be some excuse for the course taken with respect to Emancipation. It could then be said by the noble Duke, "I have always been opposed to Emancipation; but I am now willing to concede it, because I feel it necessary for the safety of the State." Such an apology might be offered then; but there is a wide difference, indeed, between that case and the present. How can a man say that he is an opponent of Reform—that he has done all in his power to defeat the measure—that he has assisted in procuring the dismissal from office of the men by whom that measure has been carried—but that still, now he is in office, he is willing and anxious to carry into

effect the principles on which that measure was founded? Would any one place faith in such a conversion?

It is well for such men to say, "Give us a trial; don't be uncandid; don't refuse your confidence until you have given us a trial." To that I will take upon myself to answer, that they have been tried all their lives; that they have been upon a constant course of trial, and their long series of trials, their many years of probation, have ended in a course of convictions—not of being the friends, but the bitterest enemies of reform. Let me put a *case to your Lordships,—Who would take his servant, in this way, or under those circumstances?* A set of servants whose conduct and whose character are known by experience, come and offer themselves for employment in a situation from which they had been turned off; they are told by their former master that he cannot employ them, as he has no confidence in them. "What!" exclaim they, "won't you give us a trial? Surely you won't send us away without a trial?"—"Ay, but" (the master replies) "you have been in my service at least a dozen years, and during that time I have for ever had to complain of your mal-practices. I have found your accounts irregular, and that the mistakes have always been in your own favour; you never would see that the needful repairs were done; you let the furniture go to ruin, and the house was ready to tumble about my ears; therefore I have had trial of you sufficient; but if you want places, why don't you go to the honest gentleman that used to live over the way, and is now settled at Prague, having gone back in the world; he wants a set of servants, having lost his late ones, whom you so closely resemble, that it is a matter of doubt which will suit him best; go to him and he'll

be glad to have you; but for me, I have had enough of you."

It has been said, again and again, place confidence in the Ministry till you see reason for withdrawing that confidence; but does not this appear to your Lordships a joke too stale to last? What confidence can be placed in a Ministry like the present, who have come forward as reformers? They, indeed, reformers! But it is said they have turned over a new leaf; they will reform the Law, they will reform the Municipal Corporations, they will reform the Church, they will give the Dissenters all they ask, save that which they ask most; nay, they will make marriage a civil contract, repeal the Marriage Act, and abolish publication of banns. But are not your Lordships prepared to ask—If these were their objects, why so hastily turn off the Reform Parliament? The Reform Parliament was ready-made to their hand, if Reform was their object. It was the child and champion of the Reform Bill—the produce of its youthful vigour, before excess had enervated it, or intrigues seduced, or time enfeebled; yet, the very first act which they did was to extinguish that reformed Parliament—and why? Why, because they were Reformers, and because they wished to give reform to the people! The real fact is, they dissolved that Parliament because it was a reformed and a reforming Parliament, and because they wanted another which was neither. Again, what has been the conduct of the present Government at the General Election which has just taken place? Whenever it happened that a gentleman appeared on the hustings to support violent Reform measures, I can very well understand why the noble Duke should say, "Don't let the Government give him their support, for although the Government is composed of reformers,

yet it is of moderate reformers"—but where a moderate reformer and an anti-reformer have appeared on the hustings, I will only ask the House which of those men Government have supported? Nay, they actually brag that they have got ninety or ninety-five anti-reformers into the present Parliament, and that this was the sole purpose of the dissolution!

Is this, my Lords, a specimen of their new-born zeal for Reform—is this a retracing of their steps? Alas! I fear all that has been urged as to the inconsistency between their preceding conduct and their sudden change of opinions, will vanish into air when put in contrast with the first act of their Administration in dissolving the reformed Parliament; and their second in opposing every reform candidate who appeared on the hustings. I fear all this zeal is but of a piece with all that the same men did in reference to the Catholic Emancipation Bill. Nevertheless, Parliament has been dissolved. I care not, my Lords, for all their professions; but I do agree with my noble friend lately at the head of the Government, that any thing louder or more solemn as a warning, descriptive of the people's feelings, could not be given than the crash which has been given to the new Ministry by the results of the late elections. No man, save in the small towns where close corporations predominate, and in one or two counties peculiarly circumstanced, has ventured to come to the hustings, except under the colours of Reform; the only exceptions have occurred in some county where undue influence prevailed, or in some borough where corruption existed, that required to be reformed. I shall be curious to see what Government do in reference to these places. If the Ministers are sincere, I expect that the first step they take will be to

reform those municipal corporations, where corrupt practices even thus recently have been carried on, and Members returned in direct opposition to the principles of the Reform Bill. I shall be anxious to observe, whether or no they will propose to disfranchise the boroughs from which they have obtained their anti-reform members. I shall reckon upon their giving up to the knife of the reformers, their only borough supporters. But to let that pass, I will confidently assert that the exceptions with regard to the character of the late returns, only confirm the general rule.

There is, indeed, another class of exceptions, which, for the character of English gentlemen and the honour of the country, I should hope comprise but very few cases. I allude to those candidates who outbid their opponents (when asked by their constituents what their sentiments were with respect to the present Government), in supporting extensive reform, and in strenuous opposition to the present Ministry, and who were returned to Parliament solely by the force of such professions. These men who thus outbid men less liberal of their promises, have yet had the audacity to come forward in the House of Commons, to turn sharp round and violate all those promises and forfeit those very pledges by which they had succeeded in defeating honest adversaries who did not bid so high. There is no other example of so vile a trick ever being practised upon the people, and the people, I trust, will never forget or forgive it. Upon the whole, my Lords, I confess that my hopes from the present Government of any thing like reform, are very limited; and, although they expect, as I hear, some support from the present Parliament, the statement of that expectation has been accompa-

nied with very plain indications, that if they do not receive it, they will have recourse to the desperate expedient of a second and immediate dissolution. Now, although there was a sort of clamour raised a little while since, when my noble friend mentioned his understanding to that effect,—although such a scheme was not admitted to exist, and it was said that the Ministers had never held out the threat,—yet the noble Duke, when on his legs, took, I remarked, no opportunity of denying it. My own apprehension is, therefore, that some such rash attempt as that will be resorted to if necessary;—an attempt, my Lords, which I will boldly say, would be an invasion upon the Constitution of the country—a direct attack on that Constitution, and a fatal inroad on the best and only security of the Throne itself. This, I would have your Lordships observe, is far from being a chimerical notion, and I would exhort the country well to mark it. But then, will nothing really be done against the Reform Bill itself? When I recollect the language with which that measure was received by some parties, on its first introduction to the Legislature,—when I know, that, in one House of Parliament, it was denounced in distinct terms by the present Ministers and their friends, on various discussions, as a measure of the most desperate tendency—when I heard them describe it as planting in this country the worst despotism that ever existed in any part of the civilized world:—as a measure which would bring into the House mob-demagogues, while it excluded all the wise and good,—which would confiscate all the property in the funds,—effect the abolition of the nobility, and the destruction of tithes, and would tear the Crown from the brow of the Sovereign:—when, in one House, it

was thus described, and when, in the other, it was (perhaps not in such set terms, but in language of similar import) characterised in a protest on the Journals, as inconsistent with the safety of the monarchy and the best institutions of the country—nay, as fatal to them all;—when I remind your Lordships that these were the opinions, and this the language, of the present Ministers regarding the Reform Bill; am I, in your dispassionate judgment, entertaining a vague, a groundless, a chimerical, a fantastic, apprehension, when I own that I believe the Bill will not be safe in their keeping? I do not think that they will be doing justice to their own consciences, if they do not attempt something to thwart the working of that Bill, and proceed, as soon as they have the power, or can muster the courage, to repeal it. Why then, I ask your Lordships to regard the question in this point of view, and to consider what ought to be—and if they are in the least degree consistent or honest—what must be the conduct of Ministers the instant they can obtain a Tory majority in the Commons? Are they not bound to work it against a Bill which they so depicted? I only know how I should feel, and how I should, as a matter of course, act, were the case mine. I will for a moment suppose myself placed in a parallel situation;—I will suppose that, contrary to all my strongest opinions, deeply rooted principles, and powerful feelings, politically and as an individual, a clamour should arise in this country against the policy of the Slave Trade Abolition Act, and the late Emancipation, and their supporters,—I will imagine that there is a violent change in the public mind on the question—that massacres have taken place in the West India Islands—that the West India interest in this coun-

try has become depressed and about to be overwhelmed, by the ruinous state of the Colonial markets—I will suppose that so complete a reaction, as it is called, has taken place on the subject of Slavery, and even the Slave Trade, as to be deemed by some to furnish a sufficient reason for bringing in a Bill immediately to abolish the great measure of Negro Emancipation,—if I should unhappily live to see that day, my Lords, under the pressure even of such a dire emergency, I can answer for myself. There would be no language that I could use, which I should fail to employ in deprecating such a step, or in raising the country, and rousing Parliament and the Government against it; nor would I refrain from agitating the empire, and even attempting to exasperate mankind against so horrid an iniquity. But, supposing such a measure were to be carried by a majority of forty-four (the majority on the repeal of the Test and Corporation Acts), should I, think you, be the person to come down the next day, and say, "Here am I, ready to help you in this work of wickedness! A vote has passed against me, and I —yes I—am the man to carry that vote into operation?" Never, my Lords,—never! Should I do as those men did in 1832, when, having defeated us on the Reform Bill, they actually offered to carry, themselves, the very measure against which they had, for above twelve months, been pouring out all their invectives—offered to carry this ruinous Bill themselves, now that they thought office within their reach—but the loud universal shriek of public indignation scared them! Never! never! If the country were so sunk, so brutalized, as to repeal sacred laws, founded (like the Emancipation and Abolition Acts) on justice and mercy, I would say, let them try;

but mine should not be the unholy hand to assist, in any way, in destroying a measure of such wise and generous policy. I might, if madness and wickedness were to triumph, be reduced for a time to despair, but I would live on in the ardent hope of being able, in better times, to undo a proceeding of such frightful iniquity. Whether I were in or out of office, I should never cease to protest against such unrighteousness, nor to maintain, through good and evil fortune, that cause which I have ever supported, not for the sake of place, but from the immutable principles of humanity and justice. Supposing, on the other hand, that I had come into office again, and were once more clothed with power to make my opinions and my wishes effective, I should feel myself bound in sound principle—in honest sentiment—in common consistency and good faith—to labour night and day to extirpate so enormous an evil as the re-establishment of a system of cruelty against which I had striven from the beginning to the end. While, therefore, my Lords, I feel that I should be bound myself to act in that way in the case I have imagined, can I suppose that the noble Lords opposite would or could do otherwise, in the like circumstances, with regard to the Reform Bill? Really, I am only giving them credit for acting with the same integrity that I myself would display in their situation. It is, then, for these reasons that I am confident the noble Lords opposite would, if they obtained a majority, conduct their proceedings in a spirit opposed to the security of the Reform Bill, and seize the first opportunity, after obtaining the power, to repeal it. Although, therefore, I will not undertake to say what would be the course of the present Government, if such a re-

action took place as should return a Parliament to their mind; yet I ought in justice to give them credit for consistency, and for common honesty; and I ask whether if, by wearing out the patience of the people with repeated dissolutions, or by force, or by corruption, if by these or by other practices they could get a majority in their favour, whether (giving them credit for consistency, and bearing in mind their denunciations against the Reform Bill)—they would not try again to reconstruct the representative system; and introduce, haply among other improvements, a part of the old Constitution, which was declared by the noble Duke to be so perfect that the art of man could invent nothing to equal it,—namely, the department of rotten boroughs? I have heard the noble Duke and the right honourable Baronet at the head of the Government declare that the Reform Bill was now part and parcel of the Constitution. That may be all very true; but still the melancholy case is, that six years ago the Protestant Establishment was just as much in their eyes, part and parcel of the Constitution, and just as often on their lips as sacred and inviolable; yet they passed the Catholic Emancipation Bill, which they had declared would pull down the Protestant Establishment. So when they now acquiesce in the Reform Bill, which they formerly said would destroy the Constitution, introduce mob-demagogues, abolish nobility, and pluck the crown from the Sovereign's head, why may not they hereafter set it aside as they did the penal code which they had never once blamed, but always covered over with their praises? The very same would be the result, if, some fine day, a general election were to take place, and a feeling to be prevalent against the Reform Bill,

Away, then, would go all their professions about that Bill being a part of the Constitution. Could it be wondered at, if (a Conservative majority being once obtained) it should be pretended that the alteration first, and then the repeal of that Reform Act had become necessary to save the empire, that the people were now against it, and that none were so fit as those Ministers themselves to abrogate it? Observe the consequences of thus taking up and laying down opinions so lightly on great questions of policy! See the result of that course which these men have been pursuing—whose principles hang about them like their clothes,—who put on a belief in some great constitutional point, as a man does a cloak, to disguise or to shelter him, and then throws it aside the moment it begins to impede his walking where he wants to go! Mark, too, how convenient the *test* is by which such men discover when it is right to change their doctrines! Necessity for the safety of the State—a general opinion in the country! Why, these are things that we can have no standard for ascertaining, and each person may and will judge for himself; that is to say, when his interest suits, he will readily find the necessity to be urgent, and the people to be convinced. To-day the penal code alone can keep us Protestant, and all the people are anti-Catholic; to-morrow Emancipation is your only panacea, and the country has come round against the Orange party. Now Reform is part of the Constitution, and no man thinks of rescinding it; and now the evils they had all along foretold have come to pass from that ill-omened innovation; Schedule A is our sheet-anchor, and the country are tired of the Bill. All hues, from orange to green, all shades, from revolutionary to conservative, can, upon these

principles (am I to call them?) be made familiar as the purpose of the day requires, and the country can have no security in any pledges or in any professions. But the country has a security in its own hands, God be thanked, and if it be wise, that security it never will part with. To the people I will turn (among whom there remains some value for consistency and public principle), and I will tell them, —"Never be the dupes of untried men—but above all never give your confidence to those who have betrayed you—stick fast by them that have been your firm friends, your constant supporters—trust the men who, standing by you through good and through evil fortune, have fought by your side the battles of the constitution—cling to those who have ever maintained, at all hazards to themselves, the rights which are dearest to you, the policy which your most sacred interests and fondest wishes have made your own—nor ever for an instant dream that the Reform Bill which they gave you, and the constitution with which it has blest you, and the valuable improvements which have already flowed from it, and the yet more precious fruits which it has still to produce, can be safe for an hour, in the keeping of those professing-politicians, now so fair-spoken, who, from the hour that the name of Reform was first pronounced, have never, till they turned the authors of it out of their places, on account of it, ceased, by day or by night, to curse it and to resist. Above all, listen not to men's promises who have before forfeited their pledges; and trust not their professions of favour to a system they detest, when they destroyed with their own hands the system they once loved, and had vowed and sworn for ever to maintain!"

What may be the issue of the conflict into which the noble Duke has thought fit voluntarily to enter, as regards either the country or the different branches of the Legislature, it is not for me to say. He has often been in desperate situations, or all but desperate, and, having been extricated by feats of fortune almost miraculous, he is not unnaturally sanguine in his views of things, and has a reliance upon his good star. So, for aught I know, he may be reckoning upon a majority in the House of Commons, although that assembly would not even wait till there was a Speaker in the chair, but declared at once against him, rejected his candidate for the place, and made choice of ours. He will, however, try again, and I doubt not more than one defeat he will bear, and continue confident. But of one thing I am absolutely certain—if any desperate attempt be made to overawe the people of this country by force and power, or to wear out their patience by repeated appeals to their sense, as it is called—but which will speedily prove appeals to feelings and to energies of a very different kind, or I greatly mistake the nature of my countrymen—if any audacious attempt is made to set at nought the result of the appeal already made, and already responded to through the people's representatives—if that appeal, made in circumstances the most favourable to those who tried the rash experiment, shall be passed over as if it had never been resorted to—and if the Government shall now no longer be carried on as, in all past times, our wisest, and ablest, and most honest—ay, and our most firm-minded statesmen were content to wield it, I mean in respectful deference to the sense of the people, in compliance with their wishes, declared re-

gularly and constitutionally by their representatives in Parliament assembled;—if, on the contrary, the executive Government is now, for the first time, to be administered in direct opposition to, in open defiance of, the opinions and the feelings of the people —then wo be unto them, whosoever they be, that shall recklessly attempt to rule in despite of the Commons, and set up the Lords in their stead! For they will then set up, in this once free country, and in place of its limited and popular government, the domination of an aristocracy, universally, proverbially, allowed to be, of all forms of misrule, the most execrable, while it fails even of obtaining respect by its power.

My Lords, I feel bound, by a deep sense of public duty, to express my apprehension of the perils that are approaching us. In certain quarters, where power now resides, I believe that the design exists of despising the sense of the Commons, and of running counter to it while this House stands by the Ministers. The weightiest matters are disregarded as frivolous because transacted in the other House; the most threatening indications of distrust are set at nought, because they proceed from the representatives of the people. Your Lordships are significantly reminded that majorities in the Lords are to be considered as well as majorities in the Commons; and the declared want of confidence in one branch of the Legislature is to be overbalanced by the overflowing favour shown in the overpowering majority of the other. I solemnly warn you, that this is not a wise resolution—not a judicious course—not a safe principle of action. If any one thing more than any other could make this House utterly hateful to the

country, it would be the fatal step of the Crown retreating from the distrust of the Commons, and seeking shelter in the protection of the Lords—relying upon the support of the nobility, while it ceased to prize, and neglected to win, the approbation and the affections of the people!

SPEECH

UPON THE

BUSINESS OF PARLIAMENT,

DELIVERED IN THE HOUSE OF LORDS,

JUNE 5, 1837.

INTRODUCTION.

THE following Speech deals with a subject of the greatest practical importance. The vast reform which it prefaced in the business of Parliament, has since been worked for a Session with the most perfect success. A Committee of five Peers, who take little or no part in private Bills, has been chosen by the House early in the Session, and has selected five others successively to be the Committee on each bill. These have heard and decided, as it were judicially, on all cases, and given the greatest satisfaction to the parties, by their despatch of business, their impartiality, and their careful attention to the subject. It is deeply to be lamented that this great improvement should still be confined to the Lords.

PREFACE

TO THE SEPARATE PUBLICATION.

THE friends of the Reform Bill appear to be very generally agreed that some material alterations in its provisions are proved by experience to be necessary; while its adversaries will in all probability resist any further change. But whatever prospects the people may have of being able to remove the evils complained of in the manner of electing their representatives, and in the qualification of electors, it seems to be admitted on all hands that some remedy must be found for the abuses which prevail in the mode of conducting Parliamentary business; and this would be equally necessary if the Reform of the Representation were already perfected.

The House of Lords last Session justly gained great credit by adopting a completely new method of dealing with Private Bills; and, although this is very far from being the most effectual remedy for the evil, the adoption of it was certainly as great a step towards such a remedy as could be made by either House singly, without an Act of Parliament. That the late House of Commons did not adopt a similar measure, created considerable disappointment at the time; but it may be hoped that this delay has only been occasioned by the desire of making the reform so universally called for, more searching. To suppose that the new Parliament can neglect this duty, would be unjustly, and at any rate prematurely, to reflect upon its character.

SPEECH.

My Lords,

I rise, pursuant to the notice which I have given, to call the attention of your Lordships to what must be regarded as of paramount importance; I mean, the state of business in this House, and, as connected with it, the state of business also in the other House of Parliament, to which the mischiefs so justly complained of are chiefly, though I will not say entirely, owing. We have been sitting between four and five months, and we have done little or nothing. We have passed one Bill which at first gave rise to some discussion on one or two particular points, but, in the shape in which it has now passed, it is identically the same that was adopted by a Committee of your Lordships' House two years ago. That Bill was this year moved by the Master of the Rolls. It was found that four or five alterations had been made in the measure of 1835. I took occasion to express my doubts as to some of those alterations, and my decided objection to others. The alterations have been, one after another, abandoned, and the Bill left the House, in all its provisions identically the same with the measure which left the Committee two years ago, having then come up from the House of Commons. I cannot, then, congratulate your Lordships on having done much in passing that Bill. Then, there is

another—the Municipal Corporation Bill—a measure of great importance, no doubt, but one that underwent, last Session, very severe scrutiny in a Committee of your Lordships, and it might as well have passed last year. But, with the exception of these two Bills, has any one thing been done this Session, to the fifth month of which we are now arrived? There is, in fact, absolutely nothing, with the exception, indeed, of your agreeing to the resolutions against the province of Canada. Upon those resolutions your Lordships unanimously concurred with the other House. As Bayes says, in the 'Rehearsal,' "When they do agree, their agreement is wonderful." Upon those resolutions, and the unhappy proceedings of this House respecting them, I have often before stated my opinion, and to repeat it now would be unavailing. This, then, is all we have done; and any other Bills submitted to your consideration must be brought forward at so late a period, that it will be almost impossible to give them any kind of attention. The case is precisely the same as it was in the Session of 1835. Nothing is done in the beginning of the Session; indeed, hardly any thing until the month of July, when the whole of the business is thrown upon us; and that is crowded into three or four weeks, which, to be fairly done,—to be efficiently accomplished, after being deliberately considered,—ought to be spread over the whole of the seven months.

In 1835, I felt it my duty to complain of, and openly to lament and to blame, the course pursued by the majority of your Lordships; but I should be wanting in common candour if I were, during the present Session, to state that, except as regards one measure, of great importance (the Irish Corporation Bill), the blame rested with the majority of your

Lordships. I must, indeed, at the same time confess, that I look with fear and trembling to the course which you may be induced to pursue with some of those measures which remain to be brought before you; but I should be guilty of a gross breach of candour if I was not at once to admit, that if your Lordships were to take the course which it is generally understood you intend to take,—if you postpone your decision upon the measures which may come from the House of Commons in the course of the next six weeks or two months,—I should be doing injustice to your Lordships, if I did not at once admit, that the fault is not at your doors, but at the doors of others. I can understand the doctrine of those who say that it would be better to have a constitution differently moulded;—they may be wrong, yet they hold that opinion consistently. They say, "Let us have no more of the House of Lords;" and that I can understand, though I may not be able to concur with them. I can understand too, though not so clearly, because it has never been stated so distinctly, the proposition of those who say, "The House of Lords, as now constituted, is ill adapted to exercise legislative functions; and, therefore, its construction should be reformed." They may hold that doctrine erroneously, but they hold it consistently, compared with those who say, there ought to be a House of Lords,—who are satisfied with the present constitution of this House; who hold that a second House of Parliament to revise the proceedings of the Commons, and to originate measures of its own, is a necessary part of the Constitution, or, if not absolutely necessary, is at least highly expedient, —and who, nevertheless, maintaining this doctrine, and resting their faith on it, take such precautions as make it absolutely—I was going to say physically

—impossible that this second House of Parliament should exercise any of those functions which they say are so essential, and which, at all events, are, under the existing Constitution, its just and lawful attributes—to crowd into three or four weeks the measures which ought to take three or four months at least, in order that they may have a chance of being well understood and fairly discussed, and safely passed into laws, by the machinery of that Constitution which those persons defend, and will not have changed—this conduct of theirs is utterly and hopelessly inconsistent.

Having said so much of the mischief, I would now entreat your Lordships to look at what may be considered as the source from which it arises; and, neither in what I have said, nor in what I am about to state, do I take upon myself to throw blame upon any quarter whatever. I have no right,—and far be it from me to wish I had a right,—to attribute this delay to the proceedings of the other co-ordinate branch of the Legislature, for which, as representing the people of this country, I do, and ever shall, entertain the most profound respect—a respect which, I trust, is shared with the large majority of those whom I have the honour to address. Nor do I wish to cast blame on the conduct of any individual Members, and I will resort to no irregular information. The only means I have of scrutinizing the proceedings of that House, are those of which they have themselves put us in possession, namely, their printed and published votes. I ascribe no blame whatever to my noble Friend near me, at the head of his Majesty's Government. I may regret, perhaps, that the Ministers have not introduced some of their Bills into your Lordships' House. No doubt they had sufficient reasons for not doing so; and, therefore,—

although it is impossible not to regret that those Bills which might just as well have been brought into a House that had nothing to do as into a House which had far too much,—I presume not to blame any one, or to impute any motives; but, without attempting to assign reasons of a party or personal kind, I think I have a right to state what appear to me to be one or two of the prevailing causes of that obstruction to the public business which all persons in both Houses of Parliament agree in complaining of.

Now, one cause may be, the privileges of the other House of Parliament, in respect of money Bills and money clauses. Those privileges prevent the introduction into your Lordships' House of many measures, which are either money Bills, or are mixed up with money clauses; and of the operation of these exclusive privileges of the other House we had some experience in the Dublin Police Bill, a few nights ago. The consequence is, that a vast proportion of Bills is admitted not to be within the original jurisdiction of this House, and only receivable here after passing the other House of Parliament. At one time it was supposed that these privileges extended much further, and that no Bill in which penalties were introduced could originate in this House. The inconvenience was long submitted to; but the mischief we are now complaining of,—viz. the postponement of the business of the House during the first months of the Session,—was so much felt, that it was found necessary to bring the subject forward in the other House, and my Right Honourable Friend the Member for Montgomeryshire, * in concurrence with the then Speaker, † carried resolutions which enabled you to originate in this House Bills with penalties.

* Mr Wynne. † Lord Canterbury.

Now that relaxation of the Commons' privileges might be extended a good deal further, without, in any way, interfering with what is most justly regarded as the exclusive right of the Commons, viz. that of levying taxes upon the people, and appropriating their produce. Without infringing upon that undoubted privilege, I cannot help thinking that some further relaxation might be made in parliamentary practice, which would be attended with the best consequences to the public business,—would tend to the improvement of legislation, as well as the convenience of Members in both Houses of Parliament, and would, especially, spread the business of this House more equally over the Session.

There is a second cause of obstruction, to which, however, I shall only advert, because it unquestionably is the right of parties to exercise their own discretion, in which House they shall choose to present their Bills, and this cannot be made matter of regulation, either as to public or to private Bills. I must say, however, that the general and the just complaint of the whole Government business being postponed to the end of the Session leads to the expression of a desire that the Government should begin earlier, and begin in this House, whatever measures can be introduced here. My observation is not directed against the present Government or the last,—against this Parliament or the preceding one; the system is in fault, and individuals ought not to bear the blame.

But there is a subject which I consider far more important than all these, an evil for which it is not impossible to provide a remedy. I allude to the manner of conducting the Private business of Parliament, the mass of which is enormous, and perhaps has been increasing of late years (although certainly not so

much as is by some supposed). There can be no doubt that this is a very great burden to both Houses of Parliament, and a serious obstruction to legislation on public measures. Beside occasioning this obstruction to public business, the course of proceeding is such as to transact the private business in the least satisfactory way; it is not only not reasonably well done, but it could hardly be worse done. As to its obstructing the public business, only see how it works. The Members are occupied the whole morning in attending to private Bills. When, in your Lordships' House, ten or twelve committees are sitting; and, in the other House, from twenty to thirty, at one and the same time;—when Members are obliged to attend those committees from the middle of the day to the sitting of the House;—when many of them are harassed, even before their attendance begins, by private communications with the parties interested,—in many cases with their constituents,—even if they have no private business of their own, no domestic concerns to occupy them;—their whole mornings are thus engrossed. And, after the labour of the day, consider what the state of Members of the other House must be, when five o'clock comes,—how ill calculated they are to continue their attendance,—and you will allow that nothing can be more likely than the want of Members enough to make a House, or to keep it together. It is not to be wondered at, if the result should be that the House does not sit at all for one or two days during each week; and that, during one or two other days, after sitting for an hour or two, they are counted out; and that it is always found more expedient to adjourn at a certain hour than to go on, although there are thirty or forty orders, and seventy or eighty notices, which

crowd the books. Of the amount of business begun in that House, your Lordships may satisfy yourselves by looking to its records. On the first night of the present Session, seventy-one notices were given, upon subjects, from the most important to what—I will not say—were the most trifling that could be entertained; for no matter can be trifling which is the subject of a parliamentary notice. But that number of notices was given; some of them upon subjects of the highest importance to the interests of the nation and of mankind; others, certainly, of lesser moment;—and those seventy-one were increased to one hundred in the first week of the House's sitting. Of these matters, if I might venture to speak, I should say a very moderate per centage only has been disposed of, although they have all been four or five months on the books. Nay, a very moderate per centage of them has ever gone beyond the embryo state of notices; the great bulk, continuing in the first stage of their existence, are mere notices still.

Oppressed, then, as the other House is with this heavy load of business, and incapable,—I will not say of expediting it—I will not say of getting through it,—but incapable of making even a serious impression on it, as your Lordships would be if you had as much to do, and as many Private Bills to expedite at the same time, let us see how the private business fares. Its amount is very large, and its importance, although not so paramount as that of the public business, is yet very great. Parliament, in a Session, deals with a greater amount of property, and disposes of a greater number of questions affecting the interests of individuals, than all the Courts of Law and Equity, in a year. I find that, in the course of the last five years, exclusive of the present Session, the

average number of Local and Private Acts was 161 each year; there having been not less than 191 passed during the last of those years. In former years there were more. Thus, in the year 1825 there were 282; and, in the year after, when the delusion of joint-stock companies was at an end, there were upwards of 200 Private Bills. Going back to the Sessions at the close of the war, in that of 1812-13, the number was 295; in 1813-14, it amounted to 298; going still further back, I find the number, in the Session of 1791-2, to be 150, and in 1792-3, it advanced to 210. I have a list of fourteen towns which, during the last twelve years, have each obtained three Local Acts; a list of six, which have each required five for their government, during the same period; and of three, which have had seven; Bristol and Westminster have had eight; Birmingham and Dublin, ten; Southwark has had twelve; Edinburgh and Glasgow, twenty each; and one, Liverpool, no less than twenty-three; and, during that period of twelve years, there have been no less than 278 Bills, making local regulations for only forty-five towns. The number of folio pages devoted to this branch of legislation—to Private Acts passed within the last Session—was upwards of 9000. During the last six years and a half, since the accession of his present Majesty, there are nearer 24,000 than 23,000 folio pages added to the Statute Book by the Private Bill legislation.

I have stated the number of Acts passed in the last twelve years for some of the great towns. This species of legislation, however, is not confined to towns; separate parishes have their numerous Acts also. In Marylebone alone, since the year 1795, the local legislation fills a volume containing 480 pages; being much greater, I will not say, than the Code of

Napoleon, but certainly than the Code Civile. Now each of those numberless Acts, I beg your Lordships to recollect, has the effect of suspending, changing, or reversing the law of the land, in particular cases, and wholly interrupting the exercise of the most important private rights; altering the law under which men have made their contracts, held their property, settled their affairs, and under the shelter of which they supposed themselves safe; giving rights which the law repudiated, powers which the law abhorred; authorising some men to do what the law prohibited to all, and sanctioning that as lawful which the general law of the land denounced, forbade, compensated, punished. That such legislative operations as these should be performed in haste, without the caution and the circumspection which their transcendent nature demands—that the rights of parties should be violated by special enactments contrary to the general law of the land, without the fullest notice, the amplest opportunity of resistance,—without throwing wide open the doors of Parliament to all whose interests might by possibility be affected, is utterly inconceivable, and would be intolerable if it came to pass. But it is not enough that notice should be given, and the doors flung open to all parties, nor even that those parties should enter in and attend the proceedings; it is absolutely necessary, if the most flagrant injustice and oppression are to be avoided, that they should be fully heard, and patiently listened to,—that the court should not proceed a step without hearing them; and that when it does come to a decision, none should presume to take a part in the determination but those who have listened to the whole matter upon which they are judging. In a court of law, where the question is of fact merely, or of applying the known and existing law to the particular case,

what should we say if we were told that a judge who had not heard the evidence, or the argument, had pronounced a decision affecting any party to the amount of the fraction of a farthing, while those who had heard the cause abstained from taking any part in the decision? I put it to any man, lawyer or layman, whether such a statement would not instantly be rejected as inconceivable? I grieve, however, to say, that as what seems impossible sometimes turns out to be true, so what would be regarded as inconceivable in an ordinary judicial proceeding, has constantly come to pass in the exercise of high legislative functions in both Houses of Parliament. I seek not to cast blame on any individuals; it is the system of which I complain,—the practice which by long usage has grown up and become inveterate. With regard to Members of the House of Commons, the case is, indeed, different from ours. Men act there under the influence, not merely of the importunity of friends, which may be resisted, but the importunity of constituents, which cannot be so easily disregarded.

I know not whether, strictly speaking, the constituents have not, as some authorities maintain, a claim on their representatives for assistance in passing or opposing Local Acts. If I were asked by any particular class of individuals to support a particular measure in this House, I have it in my power at once to reply, that I am here in my individual capacity, and represent no one; but a man's constituents may, for any thing I know, have a right to say,—"You are the representative of our interests, and belong to a House which consists of all interests acting by deputy." It is true that an individual, elected a Member of Parliament, ought to consider himself the representative, not of his constituents, but of the

community at large. It certainly is his duty to consult the interests of the country as a whole. But it may also be alleged that his constituents, in so far as their local concerns are affected, have a peculiar claim on him, and are to be represented by his voice as if they were themselves present. Be this, however, as it may, we are to see how the House of Commons proceeds in discharging this branch of its duties.

The attendance of the members on railway committees is, by a late standing order, recorded in the votes; and I find from that record of their proceedings, which I hold in my hand, that the attendance on one Bill which I will not name, or refer to further than to say that it has been before the House this Session, was as follows:—At the first meeting of the committee there were present forty-eight members, then forty, then forty-four, then forty-two, and then forty. I will suppose that every one person who was entered as nominally attending, did attend the whole time; but it is possible that only five or six out of the forty gave a continued attendance, and that the rest came occasionally, and went. The average attendance for the first six days was forty-three; but the committee did not rest on the seventh day; on the contrary, there was an unusual attendance; it looked as if they were disposed to work double tides. Suddenly, the number who appeared rose from forty to seventy-one. One naturally asks, what could be the meaning of so sudden an increase? How was it that, there having been only about forty during the first six days, on the seventh day there should be an influx of thirty additional members? The riddle is soon solved by what followed: there was a vote, and on that vote I find that sixty-five divided. So that, though there were never more than forty-two or forty-three present during the hearing of the business, while the

counsel delivered their speeches and the witnesses were examined, yet the question coming before the committee for decision, it was determined by the votes of sixty-five individuals! Some who thus divided had never attended till the sixth day, and there were several who attended for the first time on the day of the division. This course of proceeding is not confined to the case of which I have been speaking; it is of ordinary occurrence. I will give another instance still more remarkable. In the case to which I am about to advert, the committee sat for fourteen days. In the course of the eleventh and three subsequent days, there were six divisions; out of these six, three were equally balanced, and the matter was decided by the casting vote of the chairman. On the other three divisions there never was a greater majority than one; the numbers were seven to six, or six to five; so that the going out of a member who had been present, or the coming in of a member who had not been there before—and who, consequently, could not have heard a syllable of the evidence or argument—governed the decision. For the first ten days that the committee sat, the numbers who attended ran thus:—In the beginning there were seventeen, then thirteen, then seventeen, then eighteen; then, when they had got into about the thick of the business, the numbers dropped down to ten; the next day they were seven; then they began to rise again, and your Lordships will possibly suspect the reason of this rise. From seven they mounted to sixteen, from sixteen to twenty-four, from twenty-four to twenty-six, from twenty-six to twenty-eight, thus rapidly reaching that number of twenty-eight on the eleventh day. This is accounted for by a division taking place on that day. Now, seven of those who divided could not be found amongst the twenty-eight who

had given their attendance; they were seen on that occasion, but they never had been seen or heard of before. The subjects to which this committee devoted its attention were of a peculiar description, and most remarkably precise was it in the results to which it arrived. One of the questions to be answered being the number of passengers that would be conveyed daily on that line of road, I find them estimated at 513 and 7-8ths of a passenger! Such at least is the result of dividing the sum which the committee found, and to this exact result did those come who had been absent all the while! The parties were also fractionally accurate as to the income to be divided between the shareholders, which was stated to be £31,751, 18s. 4d. The committee reported that "the line and its branches, in an engineering point of view, were peculiarly fitting for their purpose; that the gradients and curves were favourable; that the steepest gradient was 1 in 290, and that extended over a mile and a quarter," &c. Why, to learn this language, it was necessary to attend for two or three days together on the committee.

But see the kind of proposition to which the absentees gave their willing assent! They declared by their votes, that the smallest radius of curvature was one mile, and that such was the curvature as the line approached a certain place mentioned. Yet such conclusions were arrived at, notwithstanding they were each day bitterly contested, and although the evidence was of the most conflicting kind. A committee sat fifty-five days last Session on a bill, which, having been then thrown out, was again introduced this year, and the committee sat for thirty-five days, making in the whole ninety days. The attendance in this instance has varied exceedingly. At first the numbers were twenty-four, then fourteen,

then twelve, then ten; they then got up to twenty-six; and, on the twenty-eighth day, they rose from twenty-six to fifty-three, when, as all who are versed in such mysteries might expect, of course a division took place, and forty-six voted. What ensued? It might be fancied that the members were exhausted with the fatigue they had undergone in that division; for next day the attendance was only twenty-seven. The day after, however, it rose to forty-three; and on that day there were three divisions. Once more the numbers fell, and there were but twenty-two present; on the last day of all, however, there were forty-three, and the final decision was come to, in which of course, many were present who had heard nothing; one, indeed, who could not have heard any thing, or been in the room, for he was only elected a Member to serve in Parliament the day before, and after the committee had been sitting for six or seven weeks. These things, be it remembered, are done, and habitually done, without any one feeling at all ashamed of them,—done, not in the dark, or by stealth and connivance, but openly, notoriously, and avowedly. They are parts of the system—a system long established; they are an inveterate and general practice; and my complaint is directed against that system and that practice, not against the individuals who conform to it, as others have long done before them. You do the same thing in this House, without constituents to instruct or importune you. I recollect a complaint which was made by a noble Baron* two years ago. He stated,—nor did any one deny it,—that twelve noble Lords had come down and divided upon a Bill which was severely contested, and without having heard any part of the

* Lord Kenyon.

case on either side, the day of the decision being the first day of their attendance.

I am aware that your Lordships may say,—as was, indeed, then said,—that those noble Lords might have read the minutes. But need I remind you of the wide difference between reading a witness's evidence and hearing him give it, and seeing his demeanour under examination, to say nothing of the arguments upon the case, not a tittle of which is to be found in the minutes?

There may be various opinions upon the character and the extent of this mischief; men may differ in their judgment how far those act discreetly or correctly who make themselves parties to such proceedings; a like difference of opinion may prevail as to the fit remedy for the evil; and we may not even be agreed how far any remedy can be effectual. But there is one thing upon which, I will venture to say, there can be no difference of opinion at all, either within the walls of Parliament or without—either among the people at large, or among those who take a part in such transactions—no difference, I will assert, even among the members of that body which alone can be supposed to profit by the system, as it now exists and is administered,—I mean the profession I have the honour of belonging to. Throughout the whole country not the shadow of a shade of difference of opinion will be found upon the merits of that system; but all men, of all descriptions, will join with one voice,—and a loud voice it must soon become,—in reprobating and condemning the system, and in strenuously and imperatively demanding a change. How the proposition for getting rid of the evil may be shaped, is a more difficult question.

Lord Melbourne.—Hear, hear!

Lord Brougham.—I grant it. But this is not,

God knows, the only evil which it is easier, by a thousand times, to point out and complain of, than to cure! If that truism, to which my noble Friend so readily assents, were a sufficient reason for not seeking a remedy, where would be all the improvements that, in so many other matters, we have attempted,—aye, and I may add, successfully accomplished? It is our duty to make the attempt, and only to cease seeking for a cure, when we find that, after all our efforts, the mischief is remediless. What I wish to press upon your Lordships is, the necessity of instituting an inquiry, in order to ascertain whether the evil is past a cure or not. If the result of the investigation should be that no remedy can be found, we must be content, of necessity, with things as they are; but do not let your Lordships be thus content by choice, and abandon all chance of, by obstructing all attempts at, improvement. For myself, I must say, that I do not think the case hopeless. I have considered various plans; and, though I will not go so far as to assert that any one of them ought, without further examination, to be adopted, or even that a combination of the whole would safely and unobjectionably effect the important object which we have in view, I will, nevertheless, state one or two of them, for the consideration of the House.

In my opinion, some regulation is extremely desirable in both Houses of Parliament, for limiting the time of year in which private business is to be transacted. I would specify the period, and not allow it to be so extended as at present. I know that there are certain interests which would not be much benefited in this way,—certain interests for whose advancement it is better that the private business should be spread over a period of five or six months; but my belief is, that it would be, in itself, a great

improvement, should we go no further than to confine the private business to a short specified period, and let it be understood that, after such a date,—allowing, say, four or six weeks,—private business should cease. But then that must be coupled with a cessation of other business, except such as is most urgent, during the time, and that involves what I know many of the Members of both Houses are averse to, namely, a compulsory attendance to private business, as there is in the other House of Parliament to election committees. This proposition might be carried into effect, if we met at a reasonable time of the year,—if we did not persist in turning winter into summer, as well as night into day,—if, instead of meeting in the beginning of February, we chose to meet in the beginning of November, laying our account with being released in the month of May or the beginning of June. We might find, after the bad habits of late years, such an arrangement inconvenient at first; but my belief is, that, in a few Sessions, we should marvel that we had so long deferred a course so easy and so advantageous. At all events, to meet earlier, to devote the first part of the Session to private business, and so to get the remainder of the Session for public business, would be, in my opinion, a great benefit.

An arrangement for getting rid of the private business in the morning is objected to by some, on the ground that such a plan would exclude professional men. My experience does not lead me to that conclusion. I find that sitting in the evening does not preclude the attendance of those professional men who have professional business in the evening. In former times, as when Parliament sat at ten o'clock, and even earlier, in the morning, they had as many lawyers, and judges, and mercantile men,

giving their attendance as of late years. My belief is, that, if the House of Commons sat in the course of the day instead of in the night—(the impossibility of sitting both day and night has made it necessary for them to adjourn almost every night at twelve o'clock)—if the private business were first disposed of, and they then undertook the public business, that would be found a much more convenient arrangement than the present.

I know that it may be said, this plan is merely speculative, and that we cannot hope to accommodate the established habits of life to such a change in the practice of Parliament. I am willing to admit that, as this question does not materially affect the motion with which I intend to conclude, it becomes me not now to waste your Lordship's time by a minute discussion of its merits; but I will take the liberty of asking, in reference to the mode of conducting private business in both Houses, and the most crying of its evils, can there be any objection to laying the axe to the root of the tree? Is there any objection to taking such measures as shall prevent the expense and the endless delays of Committees, and shall, at any rate, preclude the possibility of persons voting upon the most important questions without having heard a word of the case till the moment of deciding it? It may be said, that the standing orders respecting Bills could be so enforced or so altered as to apply a remedy; and this I have heard ever since I had a seat in Parliament. Much, too, has been done in modifying those orders; and all the while, the mischief has gone on rather increasing than diminishing. I think an inquiry will show the necessity of some legislative provision.

Some have proposed that commissions should be sent to the places for which bills are introduced, in-

stead of bringing up the parties and their witnesses to London, from all parts of the country. Why not let each House have its commission, it has been said, or both Houses join in having one, which shall examine surveyors, engineers, and other persons, on the spot; hear the parties or their counsel and agents, and report the facts of the case, in the manner of a special verdict; their report being conclusive of those facts, and the two Houses proceeding to legislate upon this finding? It is further said, that the evidence, as well as the conclusions, should be reported, and then it will be competent for the House—if not satisfied with those conclusions—to proceed and satisfy themselves. The consequence of this arrangement would be a second examination by the two Houses, because one party or the other would always object to the Report; and thus the examination by the commission would be only so much additional expense and delay. If, again, the Houses are to be concluded by the finding of the commissioners, this is a delegation to them which can only be justified by such a choice in each case as shall make each commission deserve the entire confidence of Parliament. To this, great objections may be urged; and, as I consider the plan very inefficacious, I will not now stop to discuss them.

But what objection can there be to the appointment of a certain number, as a small committee of either House,—say nine, or rather seven or five,—to sit *de die in diem*, and no person be allowed to absent himself from any sitting, any more than members are permitted to absent themselves from election committees; that no vote shall be taken without the presence of those who have heard the evidence; and that no person shall be allowed to vote by whom all the evidence and arguments have not been heard?

In some of the committees to which I have already adverted, there were members who appear to have the gift of ubiquity; for, according to the entries in the votes, they were attending three or four committees, all sitting on the same day and at the same time. The non-attendance of members when they should be there, at the hearing, and their attendance at the voting, when they ought not to be present, is not the only evil now justly complained of. It is said that these committees come to conflicting decisions. The self-same point is sometimes decided opposite ways by different committees; and occasionally these conflicting decisions are come to by the same committee, composed of nearly the same individuals, the variance being the result of one or two members going out or coming in at the critical moment of the vote. Thus, in one of the cases to which I have already referred, on the Monday a resolution was passed by a very narrow majority, that certain evidence tendered should be rejected, and that it was, in the committee's opinion, sufficiently proved that the statements of the preamble were unfounded. On the Tuesday, however, some one had gone out and some one had come in; another resolution was then come to, not quite to be reconciled with the former; namely, that the evidence should be received, and upon its being examined, the committee now held that the preamble was proved, and reported in favour of the Bill. Such things certainly lead to a suspicion that committees are governed by the balance of interests. But be this as it may, it appears that if it were no more than to secure an uniformity of decision on questions of law and of practice, a selection should be made from among the Members of the House, or that it may be found expedient to obtain the aid of skilful individuals out of the House.

I cannot help here adverting to a measure framed by a committee of this House, and adopted by your Lordships, about three years back, upon principles of the soundest kind. A Bill having come from the other House, dealing with corruption in boroughs, that Bill was found exceedingly unsatisfactory, though there was the greatest inclination to support it. A suggestion was, therefore, made by the noble Duke on the benches opposite,* who did me the honour to ask my assistance in working it; and the proposition was held to be of so much importance that it was considered proper to refer the Bill to a select committee. In the committee the matter was fully discussed; and the result was, that many clauses were thrown out, and many were introduced, and the Bill was so essentially altered that it could not be considered the same measure. The Bill having returned to the Commons, they came to the conclusion that it would be better to reject the amendments, because the effect of adopting them would be almost the same as if the House were to pass a Bill by a single vote; and this Bill, as altered, was too important a measure to be passed by the House of Commons without receiving, in the accustomed stages, the fullest consideration. It may therefore be said—not that the principle was negatived—but rather that the consideration of it was postponed. Now, what was the measure? It proposed one of the widest departures from ordinary rules,—one of the most unquestionable invasions of the privileges of Parliament I ever recollect, I will not say being carried, but propounded. It went to this: it appointed a tribunal, consisting of a judge and jury, the jury being selected from members of both Houses

* Duke of Wellington.

of Parliament. It proposed to take seven members of the House of Commons, and five of the House of Lords, who were to sit with the assistance and under the direction of one of the Judges, not being a member of either House of Parliament; there was to be given a power of appeal to the other Judges on questions of law; that jury, so composed of Members of both Houses, was to find, as it were, a special verdict on the facts of the case; that verdict, being so returned to both Houses of Parliament, was to conclude them, not as to any Bill or measure, but as to the facts only; and they were to proceed to legislate, if they chose, on the facts found by that special verdict. Why not adopt this plan as to private Bills? Only see the advantage of this:—Here is one proceeding instead of two. Instead of both Houses sitting day by day, and from month to month, there would be one jury composed always of the same persons, who would sit *de die in diem*, and thus would be saved to the parties the delay, the expense, and the vexation which, in ninety-nine cases out of every hundred, accompanies private Bills.

Various other plans have been suggested, on which I shall not dwell. Among these is one for withdrawing altogether these cases from the jurisdiction of both Houses of Parliament, and sending them before some other tribunal—the most effectual plan of all. There are many objections to such a plan; and I will admit that it is only to be thought of as a last resource, and when all other expedients are found to fail. But we have already made the experiment of transferring one branch of private legislation to a judicial tribunal. The Bill of 1835, respecting patents, has been found fully to answer. It vests in the Judicial Committee of the Privy Council the granting of extensions of patents beyond the stated period of fourteen years, a

power which could formerly only be exercised by the Legislature. Thus, too, in the Bill for constituting the Judicial Committee, as originally framed, a similar transfer was made of all divorce Bills from Parliament to the Privy Council; and although, in deference to the suggestion of my noble friend near me, I withdrew that provision, it appeared to meet with no serious objection from your Lordships, and was stated only to be postponed, not abandoned. I admit, however, that we are bound first of all to see what can be done by Parliament itself; and therefore I trust all will allow that it is the imperative duty of the House to seek for a remedy as speedily as possible to the existing evils. I trust that the subject, having been thus brought forward, the House will not allow it to be put aside, either from negligence or from despairing of a cure. I am persuaded that if the Committee be granted it will be able to devise something upon the principles of one or other of the plans which I have described. That these will afford the desired remedy, I have little doubt; that they will greatly mitigate, if not remove, the evil, I do not say I have a sanguine hope, but a confident expectation. I move your Lordships, that a Select Committee be appointed to enquire and consider of the state of the business before this House of Parliament, and the mode of proceeding thereon.

The motion was agreed to, and a Committee appointed, which, after sitting for some weeks, made the following Report:—The House adopted the resolutions proposed; and they now form the rules which are to govern for the future the conduct of Private Business.

REPORT

ON THE BUSINESS OF THE HOUSE.

By the LORDS COMMITTEES *appointed a Select Committee to enquire and consider of the State of the Business of this House, and the mode of proceeding thereon; and to report to the House.*

ORDERED TO REPORT,

That the Committee have met, and considered the Matter to them referred, and have agreed to recommend to the House the following Resolutions for regulating Private Business after this Session:—

That no opposed Private Bill be referred to an Open Committee.

That every opposed Private Bill, not being an Estate Bill, be referred to a Select Committee of Five, who shall choose their own Chairman.

That every One of such Committee of Five do attend the Proceedings of the Committee during the whole continuance thereof.

That no Peer who is not One of the Five do take any part in the Proceedings of the Committee.

That Lords be exempted from serving on the Committee on any Private Bill wherein they shall have any interest.

That Lords be excused from serving for any special reasons to be approved of in each case by the House.

That the Chairman of the Committees, and Four other Peers to be named by the House, be appointed a Committee to select and propose to the House the names of the Five Peers to form a Select Committee for the consideration of each such opposed Private Bill.

That the Select Committee of Five be not named to the House on the same day on which the opposed Private Bill is read a Second Time.

That the Committee to whom any such opposed Private Bill is committed shall meet not later than eleven o'clock every morning, and sit till four, and shall not adjourn at an earlier hour without specially reporting the cause of such Adjournment to the House at its next Meeting, nor adjourn over any Days except Saturday and Sunday, Christmas Day, and Good Friday, without leave of the House.

That if any Member of such Committee is prevented from continuing his attendance, the Committee shall adjourn, and report the cause of such Member's absenting himself to the House at its next Meeting, and shall not resume its sittings without leave of the House.

That previous to the Second Reading of any Private Bill relating to railways, and any opposed Private Bill not being an Estate Bill, such Bill shall be referred to the Standing Order Committee, before which the compliance with the Standing Orders relative to Notices, to the depositing of Plans and Sections and Books of Reference, Lists and Estimates, and to Applications for the Consent of the Owners and Occupiers of Lands, and to any other matter which may be required by the Standing Orders to be done by the Parties promoting such Bill previous to the Second Reading of such Bill, shall be proved.

MALTREATMENT

OF THE

NORTH AMERICAN COLONIES.

PREFACE

TO THE

SEPARATE EDITION OF THIS SPEECH.

It has been considered right by many of the friends of peace and of liberal policy, to publish this Speech separately, chiefly in order that the attention of men may be directed to the important questions connected with the future lot of the North American Colonies, when the ferment excited by late unhappy events shall subside. The whole history of these transactions is calculated to throw light upon the inevitable mischiefs of extended Colonial empire; and there is a farther argument of the same kind derivable from the unquestionable fact, that in even the Reformed Parliament the misgovernment of a remote and unrepresented Province, has encountered but very little opposition from many of those who are always found most reluctant to suffer the least oppression if attempted upon any portion of the Mother Country.

The comments which this Speech contains upon the conduct of the Government have been complained of—as if Lord Brougham had some duty to perform of suppressing his opinions upon the most important questions that can occupy the attention of Statesmen; and as if especially the Colonial Minister had a right to complain of strictures openly made, and in his presence, upon his public conduct.

It is, however, well known that Lord Brougham never shewed any disposition to censure the present Government until they adopted a course wholly at variance with his oftentimes recorded opinions. As long as he could support them, the history of Parliament shews that he rendered them every assistance in his power; nor did he ever while in office exert himself more, or spare himself less, than in their defence in 1835, and in carrying through the House of Lords the great measure of Municipal Reform.—In the Summer of 1836, he refrained from all complaint when he saw his measures for preventing Pluralities and Non-residence abandoned, and a bill introduced upon opposite principles.—In 1837, he continued to lend them support on all but one or two occasions, when it was impossible to approve their conduct—and on the Canada Resolutions especially, last May, he was compelled to oppose them; a duty which he performed with manifest reluctance. He had during that Session, 1837, expressed his opinions upon the necessity of altering the Reform Bill in essential particulars, and especially of extending the Elective Franchise. The present Session was unhappily opened with a declaration on the part of the Government as a body, that they took a

view wholly different from that of most Reformers; indeed, of the great body of the Liberal party throughout the country. To this has been added their support of a policy by which the rights of the subject are invaded, and the maintenance of peace itself put in jeopardy. They who complain of Lord Brougham—(the Ministers themselves are assuredly not of the number)—for adhering to his declared opinions, are respectfully requested to assign any reason why he should abandon his own principles—those which he has maintained, without the least deviation, throughout his whole life—merely that he may support the Ministers who have, most conscientiously no doubt, though for the country most unfortunately, seen fit to adopt other views. Thus much as to the claims of the Government at large, not only to form new opinions, and follow an altered course, but to carry along with them others whom their reasonings have wholly failed to convince.

Now, as to the Colonial Secretary, the party whose conduct is principally involved in the question of Ministerial responsibility for the present state of the North American Provinces:—It is well known that Lord Brougham never shewed any backwardness in coming down to his defence when he observed him unjustly attacked. No one can be better aware of this than the Noble Lord himself; with whom, however, it is understood that Lord Brougham never had any intercourse save that of an official nature while a Member of the same Government. But they who complain on the Noble Secretary's behalf, (he himself, assuredly, is not of the number,) are respectfully requested to assign any reason why full license having been always allowed him, and

some of his principal Colleagues, to form their own opinions—with them to oppose Parliamentary Reform up to 1st March 1831—to defend the Manchester Massacre—to support the Six Acts—to remove Lord Fitzwilliam from office for attending a Parliamentary Reform Meeting at York—to oppose Lord Brougham's motion on the case of Smith the Missionary—why, those noble persons having without any blame whatever been suffered formerly to hold such courses—and having, so happily for the country, and so honourably for themselves, adopted a different line of policy from Nov. 1830 to Nov. 1837, Lord Brougham alone should be complained of, for continuing since Nov. 1837 to abide by the very same principles which he had not taken up for the first time in Nov. 1830, but held in all former times? It is respectfully asked what right they who now complain of Lord Brougham for differing from the Noble Secretary of State, have to expect that he should rather differ from his former self than from his former colleague; and while yet unable to partake of the convictions that have come over others, should abandon that devotion to the cause of freedom, and of peace, to which his public life had been consecrated?

The accident of members of a Party feeling themselves under the necessity of opposing, upon some great occasion, those with whom it is their general wish to act, although unfortunate, is by no means unprecedented. When, in consequence of their friends being in office, almost all the Whigs were found, during twelve months of the last war, to relax in their desire of peace, retrenchment, and reform, Mr. Whitbread—a name never to be pronounced without reverence and affec-

tion by Englishmen—alone opposed the measures of the administration, that he might adhere to his principles. In 1820, Lord Brougham declared in his place that he stood wholly aloof from his party, on all that related to the case of the late Queen, because there appeared a danger of her interests being, without any blame, sacrificed to other, possibly more important, considerations. There seems no good reason why he should not pursue the same course, when it is understood that he now very sincerely, though perhaps quite erroneously, believes a like sacrifice is made of principles, incomparably more important—the most sacred principles which used to bind the Liberal party together; and when so many men are firmly persuaded that, but for the accident of the party being in office, they would have joined in pursuing the same course which Mr. Fox and Mr. Burke followed with such signal glory in the former American War.

It is probable, that Lord Brougham, in choosing to continue in that course, has had little fear of thereby impairing the strength of the present Government.—That may be greater or it may be less; but there can be very little chance of any diminution befalling it, while its party supporters, be they more or less numerous, both in Parliament and in the Country—more especially in many of the Corporations—appear to be so firmly held together by the common principle which guides their conduct. That principle is one in some respects well grounded, and forms indeed the foundation of all party connexions. When not pushed too far, it is justifiable and it is useful. It teaches men to overlook minor differences of opinion, for the purpose

of effecting common objects of superior importance; and warns them against the fatal error so well described by Mr. Fox, of giving up all to an enemy rather than any thing to a friend. It is, however, equally manifest, that the abuse of this doctrine may lead to a justification of the very worst misconduct—may be used as a cover for the most sordid speculations of private interest—and may sap the foundation of all public principle whatever. It is to be hoped that the party zeal of those above referred to, may not lead them to such excesses. But for the present it does appear to have made the most grave questions of national polity—Retrenchment—Slavery—Colonial rights—Constitutional principle—Peace itself—all sink into nothing compared with the single object of maintaining a particular class of men in power, and invested with the patronage of the Crown, as well as entrusted with the affairs of the Empire.

SPEECH

UPON

THE AFFAIRS OF CANADA,

DELIVERED IN THE HOUSE OF LORDS,

JANUARY 18, 1838.

SPEECH.

My Lords,—The part which I had the honour to bear last summer in this House, when the Commons sent up those ill-fated Resolutions to which I trace the whole of the present disasters, impels me to present myself thus early, and to obtrude upon your Lordships my sentiments regarding the important question before you. And, my Lords, I wish that, in following my Noble Friend over the ground which he has just trodden, I could confine myself to the space he has travelled over, without trespassing upon other more delicate parts of it. But it never seems to have struck him that when a Minister of the Crown comes to Parliament with a proposition, not merely such as the Address contains, but such as we are warned is to follow swiftly upon the Address—a demand of extraordinary aid for the executive Government—measures of a high prerogative and unconstitutional kind—it never has struck him, that the Minister who resorts to Parliament for the help of its extreme powers, in applying remedies of the last description—has something more to do than merely to

ask for those remedies and shew their necessity—that he has to explain whence the necessity arises; to defend the conduct which has led to this crisis in our affairs; to repel from himself and the Ministry whereof he is parcel, the charge of having brought the Colonial Empire committed to his care into such a state, that we are assembled at this unwonted season for the purpose of quelling a rebellion in the principal settlement of the Crown, preventing, if we can, the recurrence of disaffection, and suspending the free Constitution of the Province, in order to secure its peace. Are these every-day occurrences? Are revolt and civil war of such an ordinary aspect that they pass over us like a summer's cloud and be regarded not? Are the demands of despotic power by the Crown, and the suspension of the whole liberties of the subject, mere matters of course in the conduct of Parliamentary business? Are such demands as these to be granted the instant they are made, without any question asked—without one word said upon the antecedent parts of the novel and portentous case—without any attempt whatever to explain or to defend the maladministration which has terminated in the necessity of those demands—without even one allusion to the obvious questions—who caused this disastrous state of things?—whose fault is it that such powers are become requisite?—whose misconduct caused the rebellion to burst forth?—whose neglect of all timely precautions fostered discontent till it ripened into disaffection?—whose impolitic counsels first stirred up that discord?—and whose misapplication of the national resources fanned the disaffection into a flame? Yet, strange to tell! looking from the beginning to the end of my Noble Friend's statement, distinct and lucid as it was, to this hour I cannot descry one explanation offered—one justification attempted—one position taken or defended with the design of protecting himself against

the charges which have rung all over the country for weeks, from one end of it to the other, and all pointed against him and his colleagues in the service of the Crown! But, my Lords, I cannot so consent to abandon my duty, as to pass this matter thus over. I feel myself bound to enter upon the subject of these charges at once. I cannot follow the Colonial Minister in the course which he has found it convenient to take of flying away from the real matter in discussion, or allow him to claim the extraordinary and unconstitutional powers which he asks, as if he were discharging some common duty of mere official routine—moving for yearly returns—laying sessional papers before the House—or calling for a vote to supply the yearly expenses of his department in the ordinary circumstances of tranquil times. There was, indeed, one remark made by him that might seem an exception to the account I have given of his speech. He attempted some defence against the great and leading accusation of having sent over the offensive resolutions, and providing no force to support them. But I shall presently shew your Lordships that the explanation he gave made his case much worse, and that he left the charge more grave and formidable, if possible, than he found it.

I will now come to the course of his proceedings at large, and first of all to the interval alluded to by the Noble Baron opposite* when we last met—the period which elapsed between the dispatch of the 20th of November 1836, promising instructions to the Governor of Canada, and the 11th of March 1837, the date of the next dispatch. It is not true, says the Noble Lord, that near four months elapsed between the promise and the non-performance, (for the dispatch of March gives no instructions;) a small interval only occurred; a letter

* Lord Ellenborough.

was written about the middle of February, but it was private, and cannot regularly be produced or even alluded to, says the Noble Lord. A shorter production than that of March—shorter in point of physical dimensions, for one falling shorter of its purpose there could assuredly not be—but mathematically smaller.—

Lord Glenelg.—I beg pardon; I did not say a shorter dispatch.

Lord Brougham.—Really then, I must say, this is the most extraordinary mode of selecting papers for the information of the Parliament, or the exculpation of the Ministers, that in my whole life I ever heard of. The dispatch of March, which is of no value whatever, which tells absolutely nothing, is produced. The dispatch of July, which may be of some value, and may tell something, (I cannot know that it does, till I see it) is withheld. Why is it not here with the other? My Noble Friend affirms, that it has something in it; at any rate that it is long; and he is exceeding wroth with me for curtailing it of its fair proportions. Anxious, like a good parent, for the credit of his offspring, he extols its size, without however letting his natural partiality carry him the length of asserting that its value is in proportion to its bulk. Nevertheless, I will, if he pleases, assume it to be so. I will suppose that instead of containing nothing, like its predecessor of November and its successor of March, and indeed, that long train of phantom letters which followed each other, "stretching out to the crack of doom," it really told the Provincial Governor something of the intentions of the Ministry, something of the course he was to pursue;—then, I ask, why we have it not produced, that we too may know what that something was which was thus conveyed across the Atlantic at a critical moment a year ago? Why are we not to see that which tells something, and only that which tells no-

thing at all? That is my question; a simple one, and I should think easily to be answered; and if my Noble Friend will give it an answer, I shall readily pause in order to be spared the necessity of dwelling longer on this point of debate, willing enough, God knows, where there remain so many others which it is impossible to pass over, that I should be spared the task of dealing with any one which is superfluous. The mysterious description of this letter, is to me incomprehensible, as given by my Noble Friend. It was a private one. But what can that signify? Whether a dispatch begins My Lord, or My dear Lord, and ends with "the Honour to be," or with "Yours truly,"—I had always thought made no kind of difference in its nature, provided the matter of it was public business. The test of production is, is the letter relating or not to the affairs on which the Parliament has been convoked, and the Sovereign is to be addressed? Nor did I ever yet hear of any Minister refusing to produce a paper, whatever its form might be, which bore that relation, unless indeed he had his own reasons for suppressing it. But to refuse it on the pretence of its being private, and yet to use it as a proof that the promise of November was fulfilled in February, while the only papers produced shew that it was never fulfilled at all, is one of the most extravagant draughts ever made upon the unsuspecting confidence of Parliament.

It is on the 20th of November, then, that a promise of ample instructions is given to the Governor. The next dispatch produced, is on the 11th of March; when, instead of fulfilling the promise, now four months old, new promises are made, new hopes of instructions held out, to be realised as soon as the decision of Parliament shall be pronounced upon the case. The promissory letter of November, and the promissory note of February, are as it were, renewed, but at an uncertain date.

When was the decision of Parliament asked? As early as the 6th of March, and after passing some of the principal resolutions, including indeed the most material of the whole, that refusing an elective Council, the Easter recess comes to the relief of the Colonial Department, and Parliament is adjourned. But it meets again on the 6th of April, and assuredly neither before nor after the vacation does it testify any great reluctance to comply with the ministerial desires. From all parts of the country the members flock to their support against the hapless Province which has been denounced. From all parts of the empire the Parliamentary host assembles. Does there appear in any quarter a disposition to be over-nice about the votes given—over scrupulous as to the principles asserted? Do any of the ministerial supporters, of that staunch and trusty band to whom the Government is indebted for its majority, betray any squeamishness what measures they shall sanction—what votes they shall give? Is any wish betokened to scrutinize very narrowly the plans or the propositions of the Cabinet before they declare them unexceptionable? On the contrary, so the Ministers leave the concerns of the Sister Kingdom untouched, and administer its more practical affairs to the taste of its representatives—there is no inclination whatever evinced to make any kind of difficulty about any kind of measure—how violent soever, how coercive soever,—that may be propounded for quelling the spirit and completing the misgovernment of any other portion of the whole empire. I confess myself then quite unable to comprehend why all this delay of the necessary orders should be made to turn upon the affected ignorance of what course Parliament was likely to take upon Resolutions which were sure to be carried through the one House by unexampled majorities—through the other with scarce a single dissentient voice. Yet still not a

word is wafted across the ocean more substantial for the guidance of the unhappy Governor, than empty promises of orders—notices that some instructions will hereafter be sped towards him. This system, I own, puzzles me not a little. I can well understand the use of notices where there is to be debate and resistance to your propositions. When a question is to arise upon what you propose, that its merits may be discussed, and that its adversaries may be warned to attend the controversy, I can easily conceive the use of giving them intimation; though even then such intimations as the dispatches give, specifying no time at all, would be of no great avail. But what sense can there be in giving your servant a general notice of orders to be afterwards issued, when all he has to do must be, not to debate but to obey? Does he require notice in order to make up his mind to comply? Or is he called upon to consider in the interval, whether he shall resist or do as he is bid? And yet the noble Lord's dispatches are stuffed so full of mere notices, that I know of nothing in this respect at all equal to them unless it be the order book of the other House of Parliament on the first day of a session after a General Election! The notice however being given and the promise made in November, in the fulness of time, at the end of April, comes the expected dispatch; a six months' child is brought forth, —it makes a cry,—struggles for life—and is heard no more. I defy the wit of man to suggest the purpose of the November dispatch, or of the March one, which, instead of instruction, conveys merely a report of the divisions in the Commons, as the newspapers would have done with equal, and the original document, the votes, with greater authority; but still less can any one divine the purpose for which the dispatch of April was called into a premature and precarious existence; for instead of redeeming the oftentimes repeated pledge by letting

the Government know what he was to do, it merely brings down the report of the divisions, and adds carefully the yet more useless information of the lists of the members' names. The Resolutions, says my Noble Friend, have all been passed by large majorities, and I enclose, "for your Lordship's information, extracts from the proceedings of the House, containing a statement of the several divisions which have taken place on this subject since I last addressed you." Then as to the introduction of the Bill itself, that it seems "must be postponed till after the opinion of the House of Lords shall have been taken;" about which there seems to be entertained some doubt, to me, I confess, rather unintelligible, considering that but one voice was at all likely to be raised in this place against any of the Resolutions. But the noble Lord adds, "I have every reason to anticipate that the Bill will be submitted to Parliament within a very short period," and this was written on the 29th of April. Then come promises in abundance. "So soon," says my Noble Friend, "as the Resolutions shall have been disposed of by the House of Lords, I shall address to your Lordship full instructions on the steps which should be adopted under existing circumstances, especially with reference to the composition of both the Legislative and Executive Councils. Your Lordship may rely on receiving them in ample time, to enable you to prepare for the meeting of the Legislature." Did he rely on receiving them in time? I know not—but if he did, he was grievously deceived. I shall presently shew your Lordships that he did not receive them till long after the Parliament had met and been prorogued, and I shall demonstrate, that most fatal effects were produced by these instructions not arriving. After adverting to the time of the Colonial Legislature Meeting, and stating that the Governor was the best judge of this, the dispatch

goes on to say:—"I shall, however, distinctly advert to this point in connexion with the other matters on which I shall have to address your Lordship, and I only refer to it now that you may be aware it will not be overlooked." Really, I can hardly admit that this would be the necessary effect on the Governor's mind of such a reference; so many things had been so often referred to, all of which had in succession been entirely overlooked, that I am rather apprehensive, the reference to this question (which, by the way, it is admitted Lord Gosford alone could decide,) frustrated its own object, and was fitted to make him expect that this point of future instruction would be overlooked like all its predecessors. But another reason is given for the prospective reference—"and in order that your own attention may be directed to it in the meantime." To it? "To what," exclaims the Governor, for as yet you have told me nothing. How shall I direct my attention, in the mean time, to that of which you withhold from me all knowledge?" The thing seems incredible, and we must keep the eye steadily fixed upon the original document lest unbelief get the mastery of us. "With a view," the dispatch proceeds,—for there was a view with which Lord Gosford was to keep his attention fixed upon an unknown instruction, to arrive at an uncertain time, he was to ponder upon the question of the time of meeting Parliament, which he alone could solve, directing his attention to the instructions on that subject, to be sent by those who could form no judgment upon it, and in utter ignorance of the purport of those instructions on which he was to be all the while reflecting. And what think you, my lords, was this view with which he was to attend and reflect? What was the reason why his attention should be fixed upon nothing, why his eyes should be directed to

glare upon darkness or vacant space? "With the view," concludes this unparalleled letter, "to the sound exercise of that discretion"—some faint semblance there is here, the approach, at least, of some definite matter—but it vanishes instantly like all the rest—"that discretion which it may probably be expedient to leave in your lordship's hands, with regard to it!" So the Governor is informed that at some future, but uncertain time, he shall be told something of importance which is carefully concealed from him; the reason, however, is given for warning him that he may expect it, namely, that he may be enabled to occupy the awful interval between reading what tells him nothing, and receiving what is to tell him he knows not what, in making up his mind how he shall act in unknown circumstances, upon undisclosed instructions, and exercise "a sound discretion" upon the undiscovered matter, there being a grave doubt intimated in the same breath, whether or not any discretion at all may ever "be left in his hands." To such orders was Lord Gosford's conduct subject; by such instructions was he to be guided; in such circumstances, and leading to such results, was his discretion to be exercised. My lords, let us in justice towards an absent man—let us in fairness towards one, who, because he is absent, is by the common proverb so little creditable to human candour, assumed to be in the wrong—pause for a moment, to consider whether one so situated and so treated, even if his conduct had been the most defective, and had the least satisfied his superiors, would justly have been visited with blame, or at least, let us say whether the blame must not have been largely shared by his employers? Mark, I beseech you, in what position he is left. Sent to the advance posts of the empire—at a distance from the seat of Government—far removed from the wisdom, the vigour, the re-

sources of those councils which rule our affairs—unprovided with any but the ordinary force of the Colony, the force adapted to peaceful times; and with this inadequate force appointed to meet a crisis brought on by his employers, a crisis unparalleled in the affairs of the province—mark, I say, the helpless position of this Noble person, so unaided by adequate resources, so surrounded by extreme perils, and instead of being instructed how he is to act, told by those who first planted him there, then surrounded him with danger, and at the same time refused him help to meet it, that at a future day he shall be informed how he is to comport himself; that for the present he is to know nothing; and that he may be making up his mind by guess work how he shall act when he may be told what he should do! But, my lords! I say it is not Lord Gosford only, whose situation you are to mark and to compassionate—Look to the provinces committed to his care! If you will have dominions in every clime; if you will rule subjects by millions on the opposite sides of this globe; if you will undertake to administer a Government that stretches itself over both hemispheres, and boast an empire on which the sun never sets—it is well. Whether this desire be prudent or impolitic for yourselves, I ask not—whether its fruits be auspicious or baneful to our own interests—I stop not to inquire; nor do I raise the question, whether to the distant millions over whom you thus assume dominion, this mighty and remote sceptre be a blessing or a curse. But of one thing I am absolutely certain; at all events this resolution to have so vast an empire imposes upon you the paramount duty of wakefulness over its concerns—it prescribes the condition that you shall be alive to its administration—vigilant at all times—that you shall not slumber over it, neither sleep, nor like the slug-

gard fold the hands to sleep, as if your orders were issued to a district, each corner of which the eye could at each moment command—or a kingdom, the communication with all parts of which is open every day and every hour, and where all the orders you may issue, are to be executed in the self-same circumstances in which they were conceived and were framed. That is the condition upon which such mighty empires must be holden—that is the difficulty which exists in the tenure; hard to grapple with—perilous to be possessed of—not wholesome it may be, either for the colony or the parent state, should they long remain knit together—but at all events the condition, *sine quâ non*, of having to administer such arduous concerns.

But let us, my Lords, resume the history of these transactions. The Resolutions were introduced and in part were adopted by the Commons, on the 6th of March. Parliament having reassembled on the 6th of April, they were not brought before your Lordships, till the 9th of May, when you passed them with only my dissenting voice. Now both Lord Gosford and the Parliament had been assured that the Resolutions should be followed up by immediate action, as indeed the plainest dictates of all sound policy required, and that the Bill to make them operative should be introduced without delay? Was it so? Was any thing like this done? No. Nothing of the kind. Day after day passed; week after week glided away; and up to the middle of June, when the lamented illness of the Sovereign ended in a demise of the Crown, no one step had been taken to convert the Resolutions into a legislative measure. Yet did any man living doubt what the inevitable effect of these Resolutions must be? They were not conciliatory; they were any thing but conciliatory. They were coercive, they meant refusal, they meant repression, or they meant nothing.

They imported a repulsive denial of the Canadian's prayers—a peremptory negative to his long pressed claims—an inexorable refusal of his dearly cherished desires. This might be quite right and necessary. I don't now argue that question—but at any rate it was harsh and repulsive. Nor was there the least accompaniment of kindness, the smallest infusion of tenderness, to sweeten the cup which we commended to his lips. His anxious wish was for an Elective Council. This was strongly, unequivocally, universally expressed. Far from relaxing, the feeling had grown more intense; far from losing influence, it had spread more widely year by year. Instead of being expressed by majorities in the Assembly, of two to one, of the people there represented, after the last dissolution that had increased in the proportion of fourteen to one, the representatives of 477,000 against those of 34,000 only. Never let this fact for an instant pass from the recollection of your Lordships—it lies at the root of the whole argument, and should govern our judgment on every part of the case. It is a fact, which cannot be denied, and it indicates a posture of affairs which all attempts to change must be vain. How were the resolutions formed to meet this state of the public mind? How did the Parliament, the Reformed Parliament of England, meet the all but unanimous prayer of the Canadian people? By an unanimous vote of this House, by a majority in the other, nearly as great as that which in the Provincial Parliament supported the improvement so anxiously solicited, the people of Canada were told that they had no hope, and that from the Parent State they never would obtain the dearest object of all their wishes. But was there on the other hand no tenderness displayed to soften the harshness of the refusal—no boon offered to mitigate the harsh, the repulsive, the vexatious act of turning to their

prayers a deaf ear, and putting an extinguisher on all their hopes? There was. You had given them in 1831 the power of the purse; had told them that they should no longer have to complain of possessing the British Constitution in name, while in substance they had it not; had "kindly and cordially," such were your words, conferred on them a privilege that should place them on the self-same footing with the British Parliament, secure to them the substantial power of granting, postponing, or refusing supplies, instead of the mere shadow of a free Constitution, which they had before been mocked with. You had told them that in future the means were their's of protecting their rights from encroachment; that they could thenceforth enforce their claims of right; that they could insist upon redress of their grievances by withholding supplies, while the redress was refused. But what do you offer them in 1837, by way of sweetening the bitter refusal of their prayer for an Elective Council? You absolutely mingle with this nauseous potion, not a repeal of the act of 1831, but a declaration that for using its provisions—for exercising the option it gave of refusing supplies—for employing the powers it conferred, in the very way in which you intended, or at least professed to intend they should be employed, to enforce a redress of grievances,—you would set the act and all its provisions at nought, appropriate their money without their consent, and seize their chest by main force, in spite of their teeth, because they had done what you took credit six years ago for giving them the right to do—withheld their money until they had obtained redress! Such were the Resolutions; such their import and intention. I am not now arguing their merits. I am not about proving their monstrous cruelty—their outrageous injustice. But I ask if any human being ever existed in this whole world moon-stricken to the excess

of doubting for one instant of time, what must be the effect of their arrival in Canada? Some there may be who viewed them with a more favourable eye than others; some who deemed them justifiable, some even necessary; while others abhorred them as tyrannical and without the shadow of justification; some again might apprehend a more instantaneous revolt to be risked by them than others dreaded, and some might differ as to the extent and the efficacy of that commotion; but where was the man of any class, whether among the authors of the Resolutions, and their supporters, or their enemies, or the by-standers, among those of liberal principles who were struck with dismay at the shame in which their leaders were wrapt, or among those of opposite opinions who exulted to see the liberal cause disgraced and ruined—where, I demand, among them all was the man endued with understanding enough to make his opinion worth the trouble of asking for it, who ever doubted that the arrival of these detested Resolutions in Canada must be the signal of revolt, at least the immediate cause of wide-spreading discontent and disaffection throughout the Province? The event speedily justified this universal apprehension. I might appeal to the ordinary channels of information; the public papers of America as well as of Canada; to what formed the topic of conversation in every political circle, both of the Old World and the New; but I will only refer you to these papers, meagre and imperfect as they are; for they contain abundant proofs of the fact which I state; and in the face of these disclosures, reluctant and scanty though they be, I will defy my Noble Friends to gainsay the statement I have made. I may here observe, that as several of the dispatches give so little information that they might without any detriment to the question have been withheld, so some have manifestly been kept back,

of which the Government are unquestionably possessed, and which would throw light upon this part of the subject; although those produced give us plain indications of what has been suppressed. Thus the dispatches of the 2d, 8th, and 9th of September shew to an attentive reader, as strikingly as anything in the late deplorable Gazettes themselves, the progress of that discontent which has been suffered to break out into rebellion. In the first, Lord Gosford states that he thinks it may become necessary to suspend the Constitution—not an indication, surely, of things being in a satisfactory or a tranquil state. In the last of the three letters, he says, "up to this day (not at once, but in a course of time,) he has been obliged to dismiss fifty-three magistrates and public officers;" and for what? The magistrates for attending unlawful meetings, and the officers for seditious practices. What state of things does this betoken? And how plainly does it shew that the evil was not of yesterday? Manifestly the dismissals had been going on for a time, and notice of them had been communicated to the Government at home; but how happens it that no other intimation is given of so grave a matter except in this one dispatch? Then in the letter of the 8th September, Lord Gosford describes a Central Committee as having been formed by the disaffected, from which orders were issued to what he calls "*the* Local Committees." The Local Committees! Yet we find no mention whatever of any Local Committees in any of the other letters produced for our information! The use of the definite article plainly shews that the Governor had in some previous dispatch described those bodies to which he here refers without any description. When in the same sentence, he speaks of the Central Committee—evidently for the first time—he calls it "*a* Central Committee," and explains its nature. Clearly, then, there has been received some other letter, whether

long or short, private and informal, or regular and official, informing the Government of the ominous circumstance, here only alluded to as already well known, of Local Committees having been established throughout the Province. But that other letter is kept back. The information which the supposed dispatch would disclose is not new to me, and it is of deep importance. It points at an organized system of insurrection, and it traces the system to the arrival of the Resolutions in Canada. In each parish, Parochial Committees were formed; in each district, District Committees; and these local bodies were under the orders of the Central Committee. But a judicial system was also established: In each place there were appointed arbitrators, called *amiables compositeurs*, or pacificators, to whom it was required that all having suits should resort, and not to the King's Courts of justice; or if any party preferred the latter, he was visited by some one who warned him that the Patriots had passed resolutions against suing in the Courts of the State; his cattle were marked in the night if he persevered; and a further contumacy towards the courts of the arbitrators was visited with the maiming of his beasts the night after. This system was established and in operation as early as the beginning of September. But there are some plans which cannot be the work of a day, and of these a judicial establishment like this is surely one. We may safely calculate that months had elapsed before the things stated respecting it in these papers could exist. But I know that the plan was not confined to such Committees of Government, and such irregular tribunals. Men were raised, as was said, for the purposes of police; as I believe, to be ready for resisting the Government. The pretext was the removal of so many Magistrates from the commission of the peace. So that we have here all the great functions of Govern-

ment usurped by the disaffected;—executive administration provided, judicial tribunals formed, and a military force levied;—and all usurped under the very eye of the Government. Why do I ascribe all these frightful results to the Resolutions? My reason is plain—it is in these despatches. Lord Gosford himself tells you what their effect was, particularly that of the eighth, respecting the money; they who were most attached to the Government, who most reprobated the proceedings of the Patriots, who least favoured the French party, were loud in their disapprobation of that eighth Resolution. I do not marvel at this, my Lords; to me it is no surprise at all; I expected it. I contended against the Resolutions; I protested against them; I earnestly, though humbly, besought you not to plunge the country into that civil contention which I saw was inevitable the moment that eighth Resolution should pass. To injury of the deepest character, it added what is worse than all injury, mockery and insult. To tell men that you gave them the British Constitution, and to brag of your bounty in giving it;—to tell them that they no longer had it in form, but that now you generously bestowed on them the substance; to tell them that they now possessed the same controul over the executive Government which we in England have, and which is the corner stone of our free Constitution;—to tell them that you gave them the power of stopping supplies, for the purpose of arming them with the means of protecting their rights from the encroachments of tyranny, and of obtaining a redress of all grievances;—bragging of your liberality in thus enabling them to seek and to get, by these means, that redress;—and then, the very first time they use the power so given, for the very purpose for which you gave it, to leave them nominally in possession of it, to pass by it, to disregard it, to act as if you

never had given it at all, and to seize hold of the money, to send a file of soldiers and pillage the chest of that fund which you pretended you had given them, and them alone, the absolute power over—this surely is a mockery and an insult, in the outrageous nature of which, the injury itself offered merges and is lost. But I am not now arguing the merits of these ill-fated proceedings. Let them have been ever so justifiable, I have nothing to say against them. They were adopted by the wisdom of Parliament, and it is too late to discuss—it is unavailing to lament it; but this at least we may say, that when such a course as this was taken, known beforehand to the Government, to its advisers who could not be taken unprepared by it—who had been deliberating on it from the 20th November 1836, to the unknown date of the suppressed dispatch in July, and thence to that of the next not very instructive but at least forthcoming dispatch of April 29—the Ministers were aware of the measure they had conceived,—they knew its tendency,—they must have made up their mind to its effects,—they had resolved to inflict the grievous injury and offer the intolerable insult yet worse than the injury. Was there ever yet imbecility—was there ever confusion or want of ideas —ever yet inexplicable policy, (if I might prostitute such a name to such a base use,)—was ever there seen in the history of human blunders and incapacity anything to match this, of wronging and mocking and insulting, and yet taking no one step by way of precaution against the inevitable effect of the outrage offered, and to prevent the disaffection into which you were goading them from bursting out into revolt, and the revolt from proving successful? The Canadian People are told—You shall be defeated, and oppressed, and scorned, and insulted, and goaded to resent, but care shall all the while be taken that nothing is done

to prevent the irritation we are causing from bringing on rebellion; and should rebellion peradventure ensue, no means shall be used to prevent the shedding of blood,—to protect the loyal and restrain the insurgent. My Lords, there have been before now at various times, men inclined to play a tyrant's part; to oppress the unoffending, to trample upon the liberties of mankind; men who had made up their minds to outrage the feelings of human nature for some foul purpose of their own, aggravating the wrongs they did, and exasperating the hatred they deliberately excited, by insults yet more hard to be borne. These courses have had different fortunes,—sometimes the oppressor has prevailed,—sometimes he has been withstood, and punished by the people. But I will venture to assert that this is the first time such a course ever was pursued without some foresight, some precaution to enforce the policy resolved on,—some means provided to preclude resistance, and at least to guard against its effects. Tyranny and oppression has here appeared stript of its instinctive apprehension and habitual circumspection. Compared with the conduct which we are now called to contemplate, the most vacillating and imbecile, the most inconsistent and impotent rulers, rise into some station commanding respect;—King John, or Richard Cromwell himself rises into a wise, a politic and vigorous prince.

But it is said that there were various reasons why these Resolutions should not be accompanied with an effective force. And first, because the event has shewn that there were troops enough already in the Colony to quell the revolt. I hope it is already put down—I do not know that it is; but assume it to be so, does not my Noble Friend see how much this proves? The defence, if it means any thing means this—that the ordinary peace establishment of Canada is quite large

enough to meet the most extraordinary emergencies that ever yet happened in its whole history. How then will he meet these economists of our resources—those who are so niggardly and frugal of the public money, and justly complain of every pound needlessly spent and every man not absolutely required for the defence of the provinces? Because if it turns out that you had in times of profound peace so large a force in the Colony, as was enough to meet a most unexpected crisis, and to cope successfully with a civil war, how is the question to be answered,—"Why an army should be wanted in peace, equal to the establishment which a war requires?" Had such a question been put on any other occasion than the present, I well know the answer it would have received, because I have heard it again and again, both while in office and while out of office. The answer would assuredly have been: We keep only just force enough to meet the ordinary demands of tranquil times. Yet according to the extraordinary defence set up this night, there never are fewer troops maintained in Canada, than are sufficient to meet demands of the most unexpected kind. There may a civil war any moment break out, and the Government may occasion and may quell an universal insurrection, without despatching an additional man or gun thither. The establishment is so happily constituted as not to be too great for peace, and also not too little for war. But a second argument has been used more startling still. My Noble Friend tells you that to send more men over would have had a very bad effect, because it would be admitting the resolutions were wrong, and shewing we anticipated a resistance. Why, my lords, is it not better to anticipate a resistance, and thereby prevent it, than to do nothing and be surprised by one? Which is the worst and most dangerous course, to be over cautious, or too supine? Is not the reality of a suc-

cessful revolt infinitely more hurtful than the appearance of dreading one which may never break out? Is not a revolt far more likely to happen, and if it happen to succeed, if you omit the ordinary and natural precautions? And suppose these prevent its happening, what the worse are you for having it said, and said unjustly too, that you were apprehensive without cause?

But then a third defence is attempted. Sending troops, says my Noble Friend, would have been paying a bad compliment to the loyal zeal of the Canadians; it would have been treating them as if we could not sufficiently rely on them alone. Now I should not much wonder if these peaceable inhabitants of the province, however loyal, and however devoted, were to say, when they found themselves, through this extreme delicacy, exposed unprotected to civil war, "A truce with your compliments; send us some troops. Don't laud our zeal and loyalty at the expense of our security. Don't punish us for our good qualities. Give us less praise and more protection. Never heed the imputation you may expose us to by sending out effectual succour to those who are not military men, so that you only secure the settlement against the worst of calamities, the flames of civil war, and, should they break out, their laying waste our province." Surely, my Lords, those peaceful and loyal subjects of the Crown are sorely aggrieved when you tell them that their settlement may be involved in agitation and torn by civil broils, but that still no protecting hand shall be stretched forth to stay their ruin,—that you abandon your duty towards them —the duty of protection which alone gives you a title to the reciprocal duty of allegiance; and as surely they are mocked beside being aggrieved, when, in excuse for thus deserting your duty towards them, they are told, that were you to discharge it, you might appear to doubt their loyalty and their zeal. My Lords, this

is not, it cannot be a real defence: it is an after thought. I am sorry to say that I cannot bring myself to regard it as sincere, and but for the respect I owe my Noble Friend I could not bring myself to regard it as an honest defence. If any man had asked him six months ago, before the event, why no troops had been sent to back the odious Resolutions and render resistance hopeless, he might have given various answers to a very pertinent question. I cannot indeed easily divine what he would have urged in explanation; but of one thing I am quite certain—I can tell at once what he would not have urged—he never would have uttered a word about the dispatch of troops indicating a distrust of Canadian loyalty or a condemnation of the eighth Resolution. All this is a mere ingenious expedient resorted to after the event, and it is not, permit me to say, characterised by the accustomed candour, fairness, and ingenuousness of the Noble Lord.

Well, then, thus matters went on, and thus to the very last with admirable consistency. No instructions, either as to the Legislative or Executive Council reached Canada before the Parliament of the Province met, although it had been distinctly promised that they should arrive before the meeting, as indeed after it they could serve no kind of purpose. Nay, the Parliament had met and been prorogued before they were even dispatched from Downing Street. I am aware indeed of the dispatches which bear the date of July 14, a day remarkable in the calendar of the Colonial Office for unwonted activity—no less than four of these dispatches being all dated upon that singular day—and I know that one of these appears to contain a good deal about the constitution of the Legislative Council, but when you examine it you find nothing more than a long, a very long extract from the report of the Commissioners—so long as to require an apology in my Noble Friend's

letter for the length of the quotation. It seems that on this matter the three Commissioners had agreed. Their general course of proceeding had been to differ upon every thing—so that each reason assigned by the one found a satisfactory refutation in the arguments urged by his able and ingenious colleagues. Nevertheless they had an odd manner of often coming to the same conclusion, not only by different roads, but by travelling in diametrically opposite directions, as if to reach York they took not the Hull road or the Grantham road, but the road by Exeter or by Brighton. However, in this paper they had for a wonder all agreed; therefore my Noble Friend catches at it, and for the edification of the Governor sends him nearly the whole of it in the form of a dispatch, without adding one word of advice or information as to how the Governor should proceed in carrying the propositions into effect, or constructing his Council—the whole practical matter being what men he should put upon it. The Noble Governor was now surrounded by disaffection, and sitting upon the collected materials of an explosion; he was ruling a province on the brink of civil war, and without supplies of force, or a word of information or advice from home.* So my Noble Friend sends him a long quotation from the report of the Commissioners, a precaution the less necessary that the Noble Lord himself, being one of those Commissioners, had himself signed that report, and might, one should suppose, very possibly be possessed of some knowledge of its contents. Nay, it was barely possible that he might have a copy of the document at large. So careful however was the Noble Secretary of State, that he thought it better to send him a part of it, as he was pretty certainly already in possession of the whole. Nothing more is done till August 22, when at length a dispatch is forwarded, with full instructions as to the composition of the Council.

The dispatches before sent had contained only a very partial and entirely provisional power of appointment. But the difference between the two dates is in fact quite immaterial; for if all that was sent in August had been sent in July, it was too late—the Parliament met on the 18th of August, and unless the powers had arrived before that day, they were absolutely useless; not to mention that a proclamation issued in June shews the Colony to have been then on the verge of rebellion. The Provincial Parliament met—nothing but the Resolutions was laid before them—nothing but refusal and coercion, disappointment and mockery, were tendered to them, without a single proposition to soften the harshness of the refusal, or mitigate the bitterness of the insult. The Provinces were now arrayed in opposition, and preparing resistance to the Government, —an extensive system of combination was established, —civil, judicial, and military powers were exercised by the patriots. It was now too late to soothe, by the appointment of Councillors, whose names, a few weeks earlier, might have given confidence to the people, and paved the way for a restoration of kindly feelings towards the Government; they had already gotten the Local Committees,—their central body—their *amiables compositeurs*, their police-bands.—On the one hand, hope had been held out never to be realised—promises made only to be broken. On the other hand, resolutions of coercion had been passed amounting to hateful threats, to be followed immediately by Bills, but these were never so much as proposed to Parliament. The insurrection breaks out—blood is spilt—the province is involved in rebellion and in war—still no legislative measures are ever framed upon the Resolutions. Parliament assembles weeks after the most important information has come from the Colony,—still not a word is said of any thing but the New Civil List; and instead

of the often promised Bill to carry the Resolutions of April and May into effect, an entirely new Bill is announced, upon a wholly different plan, and to meet the completely altered state of affairs.

Now, then, I ask the reason why the measure was delayed, after being distinctly promised in April? The Government are aware that this question must be answered, and I find several reasons assigned in these papers. The first is given in one of the four dispatches of July 14: "Much as the Government have always lamented the necessity of adopting such a measure under any circumstances, they would, at the present moment, feel a peculiar reluctance in resorting to it, as they would deeply regret that one of the first legislative acts of her Most Gracious Majesty's reign, should carry even the semblance of an ungracious spirit towards the representatives of her loyal and faithful subjects in that province." If, then, "even the semblance of an ungracious spirit towards the loyal and faithful subjects," is so "deeply regretted" by my Noble Friend, what thinks he of the reality of an audacious spirit of resistance to the Sovereign herself? Does he not consider that it would have been quite as well to avoid such empty, unmeaning compliments to his Sovereign, and discharge the imperative duty cast upon him, of maintaining her authority, and protecting her loyal people? Would it not have been full as respectful a course, and to his Royal Mistress just as grateful, if instead of such tawdry and clumsy figures of speech, he had given her the opportunity of maintaining the peace of her dominions, by pursuing the course begun under her illustrious predecessor? My Noble Friend speaks of "deep regret," —was it then a subject of much satisfaction to him that weakness and indecision, delay and inaction, should lead from dissatisfaction to revolt, and end in shedding the blood of the people? Are these things no matter of

regret, when deep regret is expressed at merely continuing in the new reign the measures resolved upon towards the end of the old? The rose leaves on the Royal couch of the Young Queen must not, it seems, be ruffled by the discharge of painful, though necessary duties.—But then was the death-bed of the aged monarch to be studded with thorns? If the mind of the successor must not be disturbed with the more painful cares of royalty, was the dying Prince to have his last moments harassed and vexed by measures of a severe and harsh aspect? Such, I presume, is the reason assigned for nothing having been done after the resolutions were passed in the beginning of May. My Lords, this is a delicate—a perilous argument. We are here treading slippery ground—we are dealing with very high matters. I affirm that I speak the language of the Constitution when I absolutely refuse my ear to all such reasons. They are resorted to for the defence of the Ministers at the expense of the Monarchy. I know nothing of the last hours of one reign—or the dawn of another—nothing in the change of Sovereigns which can lessen the responsibility of their servants, or excuse them from performing their duty to the Crown, be it of a stern and harsh nature, or be it gentle and kind. Beware, I say, how you give any countenance, aye, or any quarter, to topics of defence like these. They are so many arguments against a Monarchical Constitution, and in favour of some other form of Government. This is no discourse of mine. It is not I who am to blame for broaching this matter. You are they *(to the Ministers)*—you are they who have forced it into debate—and this dispatch—this dispatch is the text upon which, trust me, commentators will not be wanting!

But, my Lords, these were not the reasons of all the vacillation and all the delay. The real reason oozes out a few pages later in the book before me. I have

been reading from the dispatch of June 29; turn now to one a fortnight later, and you find that a resolution had all at once been taken to give up the eighth Resolution, and ask money from Parliament here, for the Canadian service, instead of despoiling the chest at Quebec. This abandonment of the eighth Resolution as to all fruits to be derived from it, is indeed unaccompanied with any benefit whatever from the surrender—the announcement of the policy, harsh and insulting, is to continue; only its enforcement is given up, and the people of England are as usual to pay the money. But see with what a magnanimous accompaniment this abandonment—this shifting of the ground is ushered in. We are now in full vigour; and we cannot boast too loudly of it, while in the very act of performing the crowning feat of impotency. "The time (says this very dispatch) has passed away in which it was right to pause and deliberate." Some hopes indeed seem yet to have been entertained of amicable adjustment—it is difficult to see why—nor indeed does the Noble Secretary of State see—for he candidly says,—"hopes, resting as I must confess on no very definite ground;" yet he adds, —I cannot altogether despair that the Assembly, or some considerable portion of it, will abandon their course"—I suppose because there was nothing whatever to make them think of doing any such thing. My Noble Friend, however, in the act of abandoning his course,—a course which he declares was "entered on by him upon no light or ordinary motives—adds, "To retreat from such a course would be inconsistent with our most deliberate sense of public duty." "Deprecating, therefore, (he proceeds,) every appearance of vacillation where no doubt really exists"—and so forth. Then did he flatter himself, that when the appearance of vacillation was so much to be deprecated, its reality would work no harm to the public service? Did he not per-

ceive that all he here so powerfully urges against inaction and hesitation, and oscitancy, and faltering, were triumphant arguments in favour of that line of conduct which he never once pursued? This dispatch, full of reasons against vacillation, affords the most marvellous sample of it which is to be found in the whole train of his proceedings. The Resolutions were passed almost unanimously—it was resolved to take the money of the good people of Canada—it was affirmed that there must be no pause—no doubt—no vacillation—and the new determination prefaced by this announcement, is that the former Resolutions about which no man (say they) can now have any doubt, shall be given to the winds, and the money taken from the pockets of the good people of England!

It would indeed seem, that just about this time some wonderful change had come over the minds of the Ministers, depriving them of their memory, and lulling even their senses to repose—that something had happened, which cast them into a sweet slumber—a deep trance—such as physicians tell us, not only suspends all recollection of the past, but makes men impervious to the impressions from surrounding objects through the senses. Could this have arisen from the deep grief into which my Noble Friend and his colleagues were known to have been plunged by the decease of their kind and generous Master? No doubt that feeling must have had its day—or its hour—but it passed swiftly away—it is not in the nature of grief to endure for ever. Then how came it to pass that the trance continued? Was it that the demise of one Monarch is necessarily followed by the accession of another? Oh—doubtless its pleasing endurance must have been caused by the elevation of their late gracious Master's illustrious successor, prolonging the suspension of the faculties which grief had brought on—but changing it into that state,

inexpressibly delicious, which was suited to the circumstances, so interesting, of the new reign. Or could it be, that the Whig party, having for nearly a hundred years been excluded from the banquet of royal favour, had now sitten down to the rich repast with an appetite, the growth of a century's fast, and were unable to divert their attention from so pleasurable and unusual an enjoyment, to mere vulgar matters of public duty, and bring their faculties, steeped in novel delight, to bear upon points so distant as Canada—affairs so trivial as the tranquillity of the most important Province of the Crown, and the peace of this country—possibly of the world? All these inconsiderable interests being in jeopardy, were they insufficient to awaken our rulers from their luxurious stupor? I know not—I put the query—I suggest the doubt—I am unable to solve it—I may, for aught I know, have hit upon the solution; but of this I am sure, that to some such solution one is unavoidably led by the passage of the dispatch which refers to the demise and accession as the cause of the general and absolute inaction which at that critical moment prevailed. But another event was in prospect, the harbinger of almost as much joy as the prospects of the new reign—I mean the prospect of a new Parliament. The dispatch gives the approaching dissolution as one reason for the conduct, or rather the inaction of the Government—and I sincerely believe most truly—for as surely as an accession follows a dissolution of the Prince, so surely does an election follow a dissolution of his Parliament. It is not that there was any thing like a justification of the Bill not being introduced, in the approaching dissolution; for there was abundance of time to pass it between the beginning of May and the end of July, when Parliament was dissolved. It could not have been much delayed in the other House, where such unprecedented majori-

ties had concurred in passing all the Resolutions; and in this House, my Noble Friend* knows he can do as he likes—I mean when he is doing wrong—*Illâ se jactet in Aulâ*, and he is little opposed here. I am far from saying your Lordships would so readily let him do any thing to advance the interests of the people, or extend their rights; but only let him invade their liberties, and he is sure to find you every way indulgent; such is your partiality for a bold and decided policy; so great your inclination to support what are termed vigorous measures! It is not, therefore, with the dissolution that I can connect the laches of the Government in the way in which they urge it as a defence. But they were impatient to get rid of the old Parliament, that they might be electing a new one, and all their attention was absorbed in their election schemes. Their hopes were high; they reckoned upon gaining largely, and little dreamt that upon their appeal to the People, instead of gaining fifty, they should lose fifteen. Those "hopes too fondly nursed," were afterwards "too rudely crossed;" but at the time they filled their whole soul, and precluded all attention or care for other matters—whether justice to Canada, or justice to England. What passed in this House, to the serious interruption of our judicial functions, may be taken as a proof how little chance any Colonial affairs had of commanding a moment's regard, or delaying for a day the much-wished-for General Election. The report had been made to head-quarters by the proper officers—those whose duty it is to preside over the gathering of the Commons —to take care that there shall be a House when it is wanted—or that there shall be none when that is expedient; and above all, whose department is to arrange

* Lord Melbourne.

the times and seasons of elections. The result was, that the interests of the Ministry were understood to require that certain writs should issue on the Monday, and that on no account whatever the Parliament should be allowed to exist another day. In the general joy of the new reign and the sanguine hopes from the new Parliament, my Noble Friend on the Woolsack,* seemed himself to be a partaker. He betrayed signs of hilarity unwonted: I saw him, I can undertake to say, smile twice at that critical period, and I have heard it said, that the same symptom was observed on one other occasion; but that of course passed away. We were engaged in a most important cause—a question of law—long the subject of dispute in Westminster Hall, and on which the different Courts there had widely disagreed. It had come at length before this House for decision in the last resort, and after being fully argued, the learned Judges, whose assistance your Lordships had, still differing in opinion, had delivered their arguments *seriatim*. It was for the House to determine, and set the controverted point at rest for ever by a solemn decision; and accordingly, on the Saturday, my Noble and Learned Friend had begun by moving an affirmance of the judgment below; and by a natural mistake (the point being wholly of Common Law) he had given a reason rather for reversing than affirming, by citing the case that made against his argument. At this identical moment there was observed to approach him from behind a form not unknown to the House, though to the law unknown, the Lord Privy Seal, robed as a Peer of Parliament, and interrupting the judge in delivering his judgment, to suggest what immediately put an end to my Noble and Learned Friend's argument. There could

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* Lord Cottenham.

be no doubt of the purport of that communication;—the hour of four had arrived, and then, if at all, must the Commons be summoned to hear the Commission read. The Privy Seal had warned the Great Seal that if the judgment were given—if the reasons in its favour were assigned, only the ones against it having been stated—the Parliament could not be dissolved on Monday; and thus the grave interests of the elections might be sacrificed to the mere administration of justice. The judgment being thus prematurely closed, and the argument left against, and not for, the decision recommended by the Speaker of your Lordships' House, the commission was executed, and some score or two of Bills were passed. The judicial business was then resumed. Your Lordships differed in opinion. The Lord Chief Justice took a view opposite to that of the Lord Chancellor. It was my fortune to agree with the latter; and after considerable argument the judgment was affirmed, not for the reason which he had given in favour of it, but in spite of the reason which he had urged against it. But this was not all: I and other noble Lords were most anxious to have the dissolution postponed one day longer, in order to dispose of several important causes which had been fully heard at heavy expense to the parties, and to prevent the risk of the whole expense being renewed in case those who had heard them should die before next session, or be unable to attend the judicial business of the House. We earnestly besought the Government to grant this postponement for so important a purpose, as well as to prevent the vexation to the parties of increased and most needless delay;—to the Court, the serious inconvenience of deciding a year after the argument had been heard. But we prayed in vain; they would hear of nothing but dissolving and electing—would attend to nothing else—would allow nothing to interpose between them and

their favourite electioneering pursuits; and the reports of your Lordships' judicial proceedings bear testimony to the haste with which, to attain those electioneering objects, the session was closed, and the administration of justice in the last resort interrupted. Well, therefore, might the noble Lord's dispatch of the 14th July, assign the approaching dissolution of Parliament as a principal reason why Canada could not be attended to. Although not in the sense of that dispatch, or as any thing like an excuse for his conduct, assuredly the dissolution and its consequences had much to do with that neglect of duty. It called away the minds of men to nearer and dearer objects; fixed their attention upon things that far more nearly touched them—things that came home to their business and bosoms;—the preparations for the approaching elections; and the affairs of the remote Province, which had at no time engrossed too much of their care, were thought of no more.

Thus, then, my Lords, all is uniform and consistent in these transactions: all is in keeping in the picture which these papers present to the eye. A scene is certainly unfolded not much calculated to raise in our estimation the capacity, the firmness, the vigour, or the statesmanlike habits of those distinguished persons to whose hands has been committed the administration of our affairs. I do not by any means intend to assert that the great qualities of public life may not be discovered in these proceedings. I should be far from saying that both deliberation and dispatch may not be traced in their conduct;—deliberation amounting even to balancing, and pausing, and delay;—dispatch running into rapidity, precipitancy, hurry. You meet with the unhesitating haste, and with the mature reflection; the *consulto* and the *matura factò* are both there. But then they are at the wrong time and in the false position: the rapidity presides over the deliberative part—

the deliberation is applied to the executive. The head is at fever heat; the hand is paralyzed. There is no lack of quickness but it is in adopting plans fitted to throw the country into a flame; no lack of delay, at the moment when those schemes are to be carried into execution. They rush unheeding, unhesitating, unreflecting into resolutions, upon which the wisest and readiest of mankind could hardly pause and ponder too long. But when all is determined—when every moment's delay is fraught with peril—then comes the uncertainty and irresolution. They never pause until the season has arrived for action, and when all faltering, even for the twinkling of an eye, is fatal, then it is that they relapse into supineness and inaction; look around them, and behind them, and everywhere but before them; and sink into repose, as if all had been accomplished, at the moment when every thing remains to be done. If I were to ransack all the records to which I have ever had access of human conduct in administering great affairs, whether in the annals of our own times or in the ages that are past, I should in vain look for a more striking illustration of the Swedish Chancellor's famous saying to his son, as he was departing to assist at the congress of statesmen, "*I fili mi ut videas quantulâ* "*sapientiâ regatur mundus!*"

My Lords, I cannot sit down without expressing also my opinion upon the conduct of the other party in this disastrous struggle. Both here, and elsewhere still more, invectives have been lavished with an unsparing hand upon those whom the proceedings of the Government first drove to disaffection, and afterwards, by neglect, encouraged to revolt. I will not stoop to protect myself from a charge of being prone to vindicate, still less encourage men in their resistance to the law, and their breach of the public peace. But while we thus speak of their crimes, and give vent to the angry feelings that

these have excited among us, surely it becomes us to reflect that we are blaming men who are not present to defend themselves—condemning men who have no person here to say one word in explanation or palliation of their conduct—and that while we have before us their adversaries in this country, and the whole statements of their adversaries in the Colony, from themselves we have not one single word spoken or written to assist us in forming our judgment, or to stay our sentence against them. To any fair and candid, not to say generous nature, I am sure I need not add another word for the purpose of showing how strong is their claims to all forbearance, to every allowance which it is possible for charity to make in scanning their conduct. Then I shall ever hold those deeply responsible who could have made all resistance impossible by making it hopeless, but who sent out no reinforcements with that design—those who first irritated, and then did not controul—who, after goading to insurrection, did nothing to overawe and deter insurgents. And after all, when men so vehemently blame the Canadians, who is it, let me ask, that taught them to revolt? Where—in what country—from what people did they learn the lesson? You exclaim against their revolt—though you have taken their money against their wishes, and set at nought the rights you boasted of having bestowed upon them. You enumerate their other comforts—that they pay few taxes—receive large aids from this country—enjoy precious commercial advantages for which we pay dear—and then you say, the whole dispute for which they have rebelled is about the taking of twenty thousand pounds without the consent of their representatives! Twenty thousand pounds taken without their consent! Why, it was for twenty shillings thus taken that Hampden resisted—and by his resistance, won for himself an imperishable name, which the Plantagenets and the

Guelphs would give all the blood that swells their veins to boast of! If to resist oppression—if to rise against usurped power, and defend our liberties when assaulted, be a crime—who are the greatest of all criminals? Who but ourselves, the English people? We it is that have set the example to our American brethren. Let us beware how we blame them too harshly for following it! My Lords, I throw out these things with no view of merely giving offence in any quarter—I do so with a better object—an object of all others the dearest to my heart at this moment,—to prevent, by this palliating reflection, the shedding of one drop of blood, beyond what self-defence and the lowest demands of justice administered in mercy require—to warn those into whose hands the sword is committed, that they have a care how they keep it unsheathed one instant after the pike of the rebel has been thrown away!

My Lords, the speech of my Noble Friend would now carry me after him into a wide field—the consideration of the new system which is to be proposed for governing the Colony. Upon that ground I decline entering at present; but the general aspect of it demands a single remark. The constitution is to be suspended for three years, and a Governor is to rule with absolute power; and yet all the while the boast is that the insurrection has been partial—that only a single county of the whole eight has taken any share in it—and that all the rest of the community are loyal and well-affected! Then, I ask, why are the loyal and well-affected, because they have put down the partial revolt, to be punished for the offences of others, and to lose not only the privileges which you gave them in 1831, but the constitution which Mr. Pitt gave them forty years before? This may be vigour—it is certainly not justice. It looks like an awkward and preposterous attempt to supply at this late hour the total want of activity which has prevailed

throughout the whole conduct of Government, by an excess of action—by a morbid vigour that can work nothing but mischief to all. It is a proceeding wholly repugnant to all ideas of justice, and contrary to common sense. Only see how utterly this measure is inconsistent with the rest of my Noble Friend's defence. When you ask why no force was dispatched to secure the peace of the Colony—you are told it was quite unnecessary—the people were all so loyal that the peace was in no peril, and sending troops would only have been offering a groundless insult by suspecting their zeal and devotion. But when it is thought desirable to destroy the free constitution and put a pure despotism in its place—straightway it is found out that the whole mass of the population is disaffected and can no longer be intrusted with political rights. The rebellious spirit shifts and changes—contracts and expands—just as it suits the purpose of the argument. Now it is confined to a single county—pent up in a corner of the settlement—bounded by the river Richelieu. This is when the Ministers are charged with having left the Colony to its own resources. Presently the new plan of arbitrary government is on the carpet, and immediately the revolt spreads in all directions—spurns the bounds of rivers and mountains—diffuses itself over the whole country—and taints the mass of the inhabitants. My Lords, I care not which way the question is put, but it is a question that must be answered before these Ministers can compass both their objects, of defending their past conduct and obtaining new powers. The dilemma is now complete and perfect. If the Colony was in such a state as to justify this arbitrary bill, why did you leave it without a force? If the Colony was in such a state as justified you in withholding reinforcements, what pretence have you for disturbing its peace, and inflicting upon it a despotic government? Answer

me these questions. One answer will suffice for both. But I believe for that answer I shall wait for ever and in vain.

But then it seems that this despotic constitution is only to be the fore-runner of some other arrangement. Whether the noble Lord had himself formed a very clear and precise idea of that ulterior measure I am unable to say with confidence. But this I know, that his explanation of it left me without the power of comprehending it with any distinctness; and what I could comprehend seemed absurd in the extreme. Of all established Constitutions we are bound to speak with some respect, more or less; they have been tried, and at least been found to answer some of the purposes for which they were designed. But a wholly new and untried scheme is entitled to no respect at all beyond what its intrinsic merits claim; and as far as this scheme is comprehensible, it appears eminently ridiculous. A certain number of persons we are told are to be called by the Governor to his aid as Councillors, but how they are to be selected, and what powers they are to have, we are not informed. Is the Governor to summon whom he pleases? Then he gives no share whatever in the deliberations to the people, and for the purpose of conciliation, or indeed of learning the public opinion, the proceeding is utterly nugatory. Is he to choose the districts and leave the electors there to send representatives? But still it is a packed assembly, and no voice is given to the bulk of the community. Is he then to issue writs generally—only requiring ten councillors instead of ninety representatives to be elected for his help-mates? But when the whole country is unanimously of one opinion, this plan can have no other effect than to bring together a Parliament composed exactly like the present, only

fewer in number and under a different name. It is plain that, in one way or another, the intention must be that the people shall not elect freely as they now do, else a Parliament precisely like the disaffected one will be returned; and that those elected shall have no power to act unless they do as they are bid, otherwise the Government will be in the precise difficulty which now oppresses it. But if any such semblance only of consulting the people is all you mean to give—if under the pretence of calling them to your aid you exclude all the men of their choice, and only take counsel with creatures of your own—I tell you fairly that such an intolerable mockery will avail you nothing. Better proclaim at once a despotism, without any disguise or any mitigation. Make the Governor supreme. Let him rule without advice or even instruction—in his own name, and not in the name of the law—for your interest, and not for that of the Colonial people.

But, my Lords, I have said that I should at present forbear to pursue in detail the subject which we shall hereafter have ample opportunities of discussing at large. Neither will I go into the particulars of the civil war that has so lamentably been kindled. I have mentioned that there is reason for hoping its disasters have already reached their term. I hope, most devoutly hope, it may be so. No thanks to the Government, the Colonists themselves, left wholly to their own resources and their own zeal, are supposed to have quelled the insurrection and restored peace. But what kind of a possession is that which must be kept by force of arms? Are we not here reminded of Mr. Burke's observation upon the too parallel case of America? Here, however, I must in passing, express my astonishment at finding the address now moved, to be so nearly copied from that of 1775—after the

peremptory denial of my Noble Friend,* when I the other night said I supposed it would turn out to be so. Really, though he is but a novice in office, he made the denial with a readiness and a glibness, that might have done honour to those inveterate habits of official assertion, only acquired by the few who are born in Whitehall and bred in Downing Street. And yet when we look at it, we find it the same address with that of 1775 to the very order of the topics—all but one passage which is of necessity omitted here, because I defy the utmost courage of official assertors to have reproached the Canadians as my Noble Friend's predecessor Lord North did the Americans, with making an ungrateful return to the tenderness shewn by Parliament towards the principles of the English law and the English Constitution. The authors of the eighth Resolution, were not, I presume, capable of setting their hands to such a boast as this. In all other respects the two addresses are identical. May the omen not prove inauspicious, and may the likeness end here!

But I was drawn aside from the just remark of Mr. Burke, which I was about to cite. The rebels, said he, may be put down, but conquering is not governing, and a province which, to be retained, must be always subdued, is little worth keeping. My Lords, I may truly say the same of Canada. The revolt may be suppressed; I hope it is suppressed already, and that the blood of our American brethren has ceased to flow. But the difficulty of the case is only then beginning. Then comes the time to try the statesman—the far more delicate question then arises—and the more important—demanding infinitely greater circumspection and foresight, wisdom and judgment, than how a re-

* Lord Melbourne.

bellion may be suppressed—I mean the question, how a distant province may be well governed—a disaffected people reclaimed—and the maintenance of your empire reconciled with the interests of your subjects? The scheme of polity for accomplishing this great and worthy purpose, must be well matured before it is adopted, and when once adopted, must be executed with vigour; all pausing and faltering must then be ended. I would fain hope that the Ministers have been taught a lesson by the past, and that henceforth they will deliberate at the season of proposing measures, and act when the period for executing them arrives. But if I am called upon to pronounce, whether or not the authors of these dispatches, the propounders of last year's Resolutions, they who followed up their own policy with no one act of vigour, and accompanied it with no indication of foresight—they who embarked in a course avowedly harsh and irritating, without taking a single precaution to prevent or frustrate resistance, and, at the instant when their measures required to be prosecuted with effect, suddenly deserted them—if I am to decide whether or not they are the men endowed with the statesmanlike capacity to meet the difficulties of so arduous an occasion,—I too, must falter and pause before I give an affirmative answer. To quell an insurrection, asks but ordinary resources and every-day talents; a military power—often a police force—may subdue it, and may bridle for a season the disaffected spirit. The real test of the statesman's sagacity and vigour is applied when tranquillity is for a while restored. My Lords, painful as the avowal is, their conduct throughout these sad affairs has wrung it from me—I must pause before I can pronounce these men fit for the emergency which is fast approaching, if it have not already come.

But let it not all the while be supposed that when I dwell upon the greatness of the occasion, it is from setting any high value upon such a possession as Canada. The crisis is great, and the position difficult, on the assumption that you will resolve to keep hold of it, whether in prudence you ought or not, and will be for making sacrifices to retain it, of which I hold it altogether unworthy. Not only do I consider the possession as worth no breach of the constitution—no violation of the principles of justice—good God? what possession can ever be of a value to justify a price like that!—but in a national view, I really hold those Colonies to be worth nothing. The only interest we have in the matter, concerns the mode in which a separation, sooner or later inevitable, shall take place. The only question worth considering, as far as our national interest is considered, is whether that separation shall be effected amicably or with hostile feelings—unless in so far as the honour of the country is involved. But I am not so romantic as to suppose that any nation will ever be willing to give up an extended dominion, how unprofitable, nay, how burthensome soever it may be to hold it. Such possessions, above all, are not likely to be surrendered to dictation and force. The feelings of national pride and honour are averse to yielding in these circumstances; but I do venture to hope, that when all feelings of pride and honour are saved—when resentment and passion have cooled—when the wrongdoers on either side are forgiven—when the reign of law is restored; that justice will be tempered with mercy, the foundation for an amicable separation laid, and an estimate calmly made of the profit and the loss which result from our North American dominions. I am well assured that we shall then find them very little worth the cost they have entailed on us, in men, in money, and in injuries to our trade; nay, that their

separation will be even now a positive gain, so it be but effected on friendly terms, and succeeded by an amicable intercourse. The Government and defence of Canada alone cost us considerably more than half a million a year; independent of the million and a half which we have expended on the Rideau Canal, and between two and three millions on fortifications, uselessly spent. I speak on the authority of a Minister of the Crown, who has recorded his opinion of the burden we sustain in holding such possessions.

LORD GLENELG. Who?

LORD BROUGHAM. The Paymaster of the Forces.* But beside all this, we have to pay 55s. duty on the excellent timber of the Baltic, in order that we may be compelled to use the bad timber of Canada at a higher price, on a 10s. duty. The severance of the Colony would not only open our markets to the better and cheaper commodity which grows near our own doors, but would open the Baltic markets to our manufactures, restrained as they now are in their export to the north of Europe by the want of any commodities which we can take in return. Their produce is grain and timber, and our Corn Laws for the benefit of the landed interest shut out the one, while our Colonial laws for the benefit of the planters exclude the other. Is it not then full time that we should make up our minds to a separation so beneficial to all parties, if it shall only take place amicably, and by uniting together the whole of our North American possessions, form an independent, flourishing, and powerful state, which may balance the colossal Empire of the West? These, my Lords, are not opinions to which I have lately come; they are the growth of many a long year, and the fruit of much attention given to the subject. Of this I am intimately

* Sir H. Parnell.

persuaded, that it is of paramount importance to take care how the change shall be consummated. If the severance be effected by violence—if the member be rudely torn away and bleeding from the body of our Empire—a wound is left on either side to rankle and irritate and annoy for generations to come. Hence a perennial source of national enmity, the fruitful cause of commercial embarrassments, and of every kind of discontent and animosity not only between the countries, but among the different classes and parties of each. There is no evil against which it better becomes us anxiously to guard. All expedients should be tried to render the severance kindly and gentle—every thing resorted to that can pour balm into the wound occasioned by the operation. This is the most sacred duty of every wise and virtuous statesman. Lowering as the aspect of affairs now appears, my hope still is, that those who are entrusted with the government, be they who they may, will bestir themselves, with these views, for this purpose, and, while it is yet time, seek above all things to heal the injuries which imprudence and rashness, complicated with imbecility and vacillation, have inflicted; so as to give us, not outward peace only, but real concord and friendship, without which the wound is but skinned over, and peace must be precarious and only a name. But, to give real peace and concord, the wrongs complained of must be redressed, and I fairly tell you that the master grievance must not be suffered to remain. All Canada cries out for an Elective Council. Refuse it you cannot. The complaint against its present constitution is like that some time ago urged against this House. *(One of the Ministers here said this was not a judicious allusion.)* Will my Noble Friend, whose eagle-eye can pierce through the darkness of a statement barely commenced, and catch its application to an argument not yet broached, suspend his sentence

of condemnation till he hears whether the allusion be indeed judicious or no? I was stating that language more severe had not been used towards the Legislative Council in the Province, than I have often heard employed in this place against this Legislative Council of the Parent State. But there is a wide difference, my Lords, between the two cases; and upon that difference rests the application of my present appeal, so prematurely judged of by my Noble Friend. First, Whereas, only an inconsiderable fraction of the people of England have demanded a reform in the Constitution of this House, and even they have not persevered in this demand, all the Canadian People with one voice have called aloud and vehemently for a change in their Upper House, and have never for one instant, in any circumstances, abated one jot of the vehemence with which they universally urged that demand. Next, we never have been rationally, or even intelligibly informed in what way the Reform of this House could be effected, without the overthrow of our mixed Monarchy; whereas the change proposed in the Colonial Council has always been distinctly stated, and accords with the whole principles and frame of the political constitutions all over the New World. Lastly and chiefly,—the charge made against your Lordships of refusing the measures which the other House sent up, rests upon a very narrow foundation indeed, compared with the sweeping accusation brought against them. You altered some Bills for the worse, as I think; you mended others, changing them for the better; one or two you wholly rejected in one or two Sessions; whereas the Council in Canada refused Bills of all kinds by wholesale, rejected scores of the most important measures upon all subjects indiscriminately. Bills upon Government—education—administration of justice—trade—retrenchment—reform of all abuses—all shared the same fate. Trust me, my Lords, if you

had been so ill-advised as to pursue a course like that, there would a very different cry have arisen for Peerage Reform from any thing you have ever yet heard. With all the difficulty of forming a plan for it, the demand of some change would have become general, if not universal. Instead of a feeble cry, proceeding for a little while from a small portion of the country, all England would have vehemently persevered in the demand of reform. The wisdom of your Lordships prevented this. The conduct of the Upper House in Canada was the very reverse; and when the people had nothing to hope from its present structure, no wonder that the demand for its change became loud, vehement, universal,—but much wonder if in a cause so just, it should not in the end prove irresistible! In vain, believe me, do you send out new Governors with larger powers! In vain you commission my Noble Friend to carry out the force of a Despotic Government, if he is not also armed with force to redress the master grievance! With every disposition to trust his ability and his temper, the work of reconcilement never can flourish under his hands, if they be not strengthened to do it by the only power which can avail; if they are strong only to inflict new wounds, and impotent to bestow the boon of justice and redress. I shall most deeply deplore his undertaking such a mission, if he goes thus cramped and fettered. If he is only to carry out the most unconstitutional, the most oppressive Act that has crossed the Atlantic since the fatal Bill of Massachuset's Bay, I shall lament it on his account, because he can reap from such a service no honour; I shall still more bitterly deplore it for the country's sake, which can derive nothing but disgrace from such a course; for the sake of the first of all blessings, the public peace, which will never be permanently secured by acts of unmitigated injustice!

But once more let me beseech you to resolve that you will abide by the course of justice—grant liberally —improve fearlessly—reform unflinchingly, whatever the Canadian people is entitled to demand that you should grant—improve—reform. By none other measures can either right be done by the Parent State to its American subjects, or the character of England be sustained; by no other course can the honour of the Crown, the character of the Parliament, above all the peace of the New World be restored, or the peace of the Old maintained!

MALTREATMENT

OF THE

NORTH AMERICAN COLONIES.

PREFACE

TO THE

SEPARATE EDITION OF THIS SPEECH.

THE complaints which had been occasioned by Lord Brougham's former Speech upon the mal-administration of our Colonial affairs were renewed upon the delivery of the following Speech, not by those whose conduct was particularly impugned, but by the noble Lord at the head of the Government. He spoke with his usual ability, but with less than his accustomed success, because it was exceedingly difficult to perceive what right he had to complain of any one for differing with him in opinion; or what there is in the noble Viscount and his colleagues which should exempt them from the lot of all Ministers, to have their conduct discussed; or why Lord Brougham should be precluded from pursuing the course which he has all his life held, and defending his well-known principles, merely by the accident of his having once been Lord Melbourne's colleague, and afterwards Lord Melbourne's supporter, so long as his measures accorded

with Lord Brougham's views of national policy and public justice. The noble Viscount omitted to give, in his able and ingenious speech, any reason in support of the proposition, which he did not indeed state, but from beginning to the end of his remarks assumed to be undeniable, that whoever, having once found him and his present colleagues pursuing a sound policy for some years, shall refuse to change not only his own opinions upon that policy, but the whole opinions of his public life, at the bidding of the Cabinet, and to act thenceforth with them in opposition to all his own most cherished principles, must be actuated by some sinister motive, some feeling of a private or personal nature: Or the convenient or self-complacent proposition, thus assumed and acted upon by the noble Viscount, may be stated in other and fewer words: It is this: that no one can be influenced by justifiable motives, who does not agree with and support the present Cabinet through every change of principle, and more especially that portion of the Cabinet whose changes have been the most marked, and have been separated from each other by the shortest intervals of time. But to this assumption was added another, peculiarly adapted to the case of Lord Brougham. It was, that no man can ever honestly differ with Lord Melbourne, after once agreeing with him; nor, having supported him in one line of policy, can honestly refuse to support him in its opposite, unless he has some private feeling of spite or of interest to gratify.

A charge so unexpected naturally called forth from the object of it a peremptory and indignant denial; —not indeed more peremptory, but possibly somewhat

more indignant, than the very gross and notorious absurdity of the accusation might appear to warrant. An honest defence disdains recrimination; it meets the charge in front—pointedly repels it if precise, or if vague demands specification—challenges inquiry—and defies to the proof. But the duty of self-vindication once discharged, the interests of justice require that the adventurous and discomfited assailant should be pursued and exposed, in case his own conduct should peradventure be found to have been the subject to which the offensive and ill-considered censure might with perfect accuracy have been applied. Lord Brougham said that he purposely avoided all such contention, and restrained himself within the limits of distinct, unequivocal, uncompromising denial.

The satellites of the Government are understood to have been greatly edified and comforted by their leader's tone, marked as it was by more than ordinary animation, though with less than the usual provision of argument. It is respectfully asked of those zealous persons, that they would have the goodness to offer some *explanation* of the grounds of his attack, should it be expecting too much to look for some *proof* of Lord Melbourne's assumptions, in behalf of which he offered no more argument than he did in behalf of the Bill itself, or the conduct of Lord Glenelg, or the new morality recently discovered by Sir F. B. Head. Lord Melbourne, in the exalted station which he at present occupies, may not, perhaps, without want of due deference, be called upon for reasons in behalf of the decisions which he so readily pronounces and so rarely defends. He, exempt from the ordinary lot of ordinary

Ministers, to have their measures debated freely—above the vulgar necessity of assigning grounds for his opinions—removed from the sphere of common mortals, in which he described Lord Brougham to move, and in which he said a man was often blind to what all but himself clearly saw,—has of course the peculiar capacity of forming a sound, because an impartial judgment in his own case; and must be listened to as an authority from which there can be no appeal, when he pronounces judgment between Lord Brougham and himself, and declares that all the world, except Lord Brougham, have long since decided on Lord Melbourne's superior fitness to lead the Popular Party in this country. These are the attributes of very high station, of profuse Royal favour, and of much patronage combined with a little power. But his adherents are not endued with the same infallibility, and cannot so easily be allowed to decide without giving reasons. It is therefore most respectfully asked of them, by what particular argument they mean to disprove Lord Brougham's right to hold in 1838, the same opinions which he held in 1837, and to pursue now the same line of conduct to which Lord Melbourne and others came over in 1831, most creditably to themselves, and most happily for the State, with a celerity that produced the most fortunate results to the country as well as to themselves? And if it be not taking too great a liberty, or taxing their invention too severely, they are also most humbly entreated to shew, why Lord Brougham has not as good a title to persevere in that course now, merely because the converts of 1831 have, very unfortunately for the State, though without

any kind of reproach to themselves, abandoned it, and returned to their old opinions with a celerity as remarkable as that which marked their former conversion? When this shall be shewn, there will be laid a ground for charging Lord Brougham with personal motives in refusing to alter his conduct; and for believing that all mankind consider Lord Melbourne to be an old, consistent, and steady friend of liberal opinions.

Lord Brougham, it may be observed, has never complained of any changes in the conduct and principles of others; he may therefore be the more easily forgiven for claiming the right of adhering to his own. Instead of asking if the conversion witnessed in 1831, of the most zealous enemies of Reform into wholesale, almost Radical Reformers, was quite unconnected with the maintenance of the Government they belonged to; and if the re-conversion of November 1837, had its origin in nothing like a notion that the Court had become more friendly, and was better worth a prudent statesman's regard than the people; he rested satisfied with assuring the ministers that they might, any day or any hour, restore him to his position as their zealous defender against the Tory majority of their adversaries, by simply retracting the declarations against Reform with which they unhappily ushered in the Session; or, without formally recanting, by merely bringing forward liberal and constitutional measures. They refuse to accept any such offer; they will not comply with that condition. Doubtless they are right—most probably Lord Brougham is wrong; but how he can be charged with falling into his error, great as it

may be, through personal feelings, is not so easily perceived.

On the same night, Lord Melbourne disclosed a secret, which is understood to have been, until then, locked up within his own breast. He has, it now appears, been for the last three years constantly expecting Lord Brougham to adopt the course into which he has of late been driven by the Government. Then, the observant bystander, who perceives that Lord Brougham never failed to support the Ministers most zealously until they changed their conduct, must be led to infer that this change of theirs was all the while foreseen and predetermined by the noble Viscount—though certainly concealed with some care, and with entire success, from all his followers. But if it shall be said that the noble Viscount's constant expectation, his daily foresight, of what he pleasantly called a change in Lord Brougham, without reflecting that it is an alteration in himself, was owing to some impression which he had respecting Lord Brougham's habits and character, it will follow that he must have given frequent indications of this mistrust, of this presentiment, both in public and in private, and must have explicitly ascribed the active support of 1835, the kind and considerate abstinence of 1836, and the partial and reluctant dissents of 1837, to their real, though still not very intelligible cause; and at all events, that he never can have given Lord Brougham, or any common friends, the most distant ground for believing that he gave him the least credit for being influenced by the kindness of friendship, or the steadiness of principle, or the magnanimous sacrifice of personal

considerations to either friendship or duty. It must, of course, be absolutely impossible that Lord Melbourne should have left his opinions and his expectations doubtful upon this head, or ever expressed any feelings of gratitude, much less any indications of being sensibly touched by Lord Brougham's conduct towards him and his Government, when he was all the while penetrated with the conviction that Lord Brougham was only waiting for an occasion to vent "his long-suppressed and thus exasperated animosity" against his former friends and colleagues. If, indeed, this should not have been the case—if the very opposite should turn out to have been more nearly the fact—it must be confessed that both these Lords have been placed in situations quite unprecedented, though the one of those situations will, perhaps, upon reflection be felt to be somewhat less enviable than the other. It is only consistent with fairness and candour towards a man who certainly never on any former occasion got into such a position, that it should be observed, how likely it is, after all, that Lord Melbourne's boast of his foresight and perspicacity, should be like his Canadian friend's* discovery of the way to deal with revolt—an afterthought —and that, in the heat of the moment, he painted himself in unfavourable colours, by extolling his sagacity at the expense of far more important qualities.†

* Sir F. B. Head.

† A similar indiscretion was committed by the noble Viscount, in the first Civil List debate, when Lord Brougham was charged by him with courtier-like conduct, in a moment of sudden irritation, brought on, it should seem, by Lord Brougham having made a very harmless observation upon a most notorious circumstance, that of Lord Melbourne living so constantly at Court; which he, of course, does in virtue of his office.—though certainly none of his predecessors ever devoted so much of their time to this branch of their public

But if we reach this conclusion against his own assertion, and only by resorting to the other parts of his conduct, which pretty loudly belie that assertion, it may possibly be deemed not unjust towards the other party to remark, that his life has been marked by little regard to feelings of a sordid cast. That Lord Grey's Government might be formed, he most reluctantly yielded to solicitations to abandon an enviable and secure position, both as to profit and power, because he was unwilling to disappoint the Whig party, and shrank from the heavy responsibility of preventing a Reform Government from being established; though he soon after discovered that the party had

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duties. The charge of courtiership thus ridiculously levelled at Lord Brougham, he at once repelled, by stating that Lord Melbourne, who had thoughtlessly made it, must better than most men know, if he gave himself a moment's time for reflection, how utterly groundless it was. Indeed, all the world knew this very well; none so well, however, as Lord Brougham's former colleagues and the present Royal Family. For he it was who, though honoured with the late Duke of Kent's friendship and co-operation upon the great question of Education (as referred to in the Slavery speech, 20th February 1838), had nevertheless refused to withhold his opposition to that Prince's Lottery Bill in 1818, and caused His Royal Highness to withdraw it; a step which, as the constant enemy of Lotteries, he felt reluctantly obliged to take, notwithstanding His Royal Highness' urgent application; and to which the Duke ever after ascribed his great pecuniary embarrassments. Lord Melbourne and his colleagues must have also well known, that Lord Brougham's falling into disfavour with King William IV. was entirely owing to his pressing upon that Monarch the immediate formation of the Government under Lord Melbourne himself, and his sudden declaration in his place, that this Government was ready to continue in office,—a step which wholly prevented His Majesty from executing his design of changing his Ministers, as he had hoped to do, if they had expressed any kind of reluctance to go on after Lord Grey's resignation. The same individuals also well knew His Majesty's severe displeasure and disappointment at Lord Brougham's peremptory refusal to take the Government in May 1832, when His Majesty was desirous that it should be reconstructed by him of persons willing to carry the Reform Bill; for it is believed that they both knew of his intercourse with His Majesty, and of the written correspondence on Lord Brougham's positive refusal. All this little indicates *courtier-like habits*.

fallen into the trap, some of them, it is believed, very willingly, of having him removed from his real and natural place in the Commons House of Parliament. It is pretty well known that he adhered to the cause of Slave Emancipation, at a large sacrifice of private fortune. It is admitted by Lord Melbourne, that his help was never withheld from the Government until they made war upon popular rights last March, and turned their back upon popular opinions last November. Nor is it denied that he has, ever since he ceased to hold office, given up almost his whole time to judicial duties in the House of Lords and the Privy Council, labouring as hard as most of the Judges labour in the discharge of their professional duties. Moreover, if Lord Melbourne had spoken with the least reflection, he would have been aware that the facts of the case which he wholly overlooked, are irreconcilably opposed to the intimations of his alleged foresight and acuteness. What does he think, for example, of his leaving entirely out of view the somewhat remarkable circumstance, that Lord Brougham's most active and necessary exertions to defend and uphold the Government, (a task somewhat heavier than Lord Melbourne is perhaps aware of,) were made immediately after its formation, when of course, if at any time, Lord Brougham's differences with his former colleagues must have been the widest, upon the supposition of his listening to personal considerations? Then, again, having left out of his view this fact respecting the beginning of the period, how comes the noble Viscount to have equally passed over another fact which signalised its close—the Mi-

nisterial declaration against Reform? No attempt is here made to blame that policy; but at least there seems some haste, not to say unfairness, in wholly leaving it out of view, as if it could by no possibility be connected with the matter in question.

It is further worthy of notice, that no complaints are ever made of Lord Brougham during the last two or three years, in any quarter deserving notice. A few anonymous writers, acting upon a mistaken sense of duty —if not upon an erroneous calculation of what would gratify their patrons—amused themselves with very bitter and somewhat heavy, though harmless invectives against Lord Brougham, while he was daily sustaining those patrons with all zeal in the House of Lords. But the party,—especially the Cabinet portion of it—were always abundantly loud, and apparently hearty, in expressing their thanks for his public support, their only complaint being that he persisted in withdrawing himself from the intercourse of their private society—a restraint which he must have considered necessary to maintain his independency, else he assuredly never could have subjected himself to what must prove a great loss of enjoyment to him, though it could prove little or none to them. This, however, was the only complaint ever heard, until the change of tone which marked the Ministerial declarations at the opening of the new Parliament. That Lord Melbourne should have mistaken Lord Brougham's conduct, if it be a mistake into which he has fallen, may appear strange —but that he should pronounce confidently upon a matter unknown to him, can in nowise surprise those who heard him pronounce unhesitatingly that Dr. Ro-

bertson was "*a florid and fanciful writer.*" Lord Melbourne's station is no doubt far higher, as First Lord of the Treasury, than Mr. Gibbon's, who never rose above a seat at the Board of Trade—but excepting in that department itself, it may be doubted whether any one can be found who would appeal to the Minister from the historian's deliberate judgment, that Dr. Robertson was "*the most accurate of all historians.*" To charge so chaste a writer with a florid style, seems an hallucination only to be matched by the comparison of Gasca, whose name the noble Viscount had never before heard of, with the Governor of Upper Canada, of whom he had heard a good deal too much.

It must further be observed that Lord Brougham never laid any ground for disappointment, by professing an adhesion to the Government in all circumstances. On the contrary, his speech in July 1835, at Liverpool,* expressly avowed that he would look to their measures, and that when he found these were framed with a regard to the people's good, and propounded on the principles which were known to guide his public conduct, he would support them—but if another course were pursued, he would oppose them, and see which party the people would stand by. These were his words while preparing to redeem the first part of the pledge, by supporting the Municipal Reform which he almost singly fought through the House of Lords. It is once more respectfully and humbly asked why he should be so piteously complained of for now redeeming the other pledge also?

* Printed in this Collection.

It really seems as if no supporters were valued or trusted except those who have adopted the new maxim of Treasury morality never professed by Lord Brougham, possibly never clearly comprehended by him, that the more a Ministry is in the wrong, the more imperative becomes the duty of flying to its defence. Whoso would work out his salvation in Downing Street, it is necessary that he believe this; and if he act up to his faith, he shall be deemed a friend indeed.

That there is any great danger of the people suddenly deserting the Government, and opposing them, is little to be apprehended. The people are disappointed, disheartened, and dispirited—they are becoming distrustful of all public men of the regular Whig party, as they are hostile to all of the adverse faction, although from the latter, they never could have less of Constitutional Reform, and probably would have more of important practical improvements; and, at least, their restoration to place would give back to the liberal side many of its best supporters, who are at present trammelled by official connexion, and other ties hard to loosen. But although the people are thus flat and indifferent,—although they may do nothing to destroy the existing Ministry,—they will not stir a finger to help it; the first quarrel with the Court will seal its doom; and the Whigs, as a party, will have ceased to rule. The Ministers see none of these things; they hear the voice of the charmer only, whose accents, modulated to the key of the ear he wishes to tickle, pour out only the pleasing fallacy, the harmonious misrepresenta-

tion, the silver-toned strain of hope, the cheerful note of confidence,—and whose especial object it is to suppress all unpleasing discords from unwelcome facts and unfavourable symptoms. That the people are friendly while they remain passive and do not oppose; that the select circle of the occupants of place, who rival the serpent, if not in his wisdom yet in his tenacity of life, form the whole Whig party; and that, if it is at all necessary to consult the opinions of any others, it is needless to go further than the outer circle,—the eager, ardent, irrepressible, resistless expectants of promotion, who have no opinions at all except of their own fitness for place, nor any principles at all except that whatever the Ministry does, or indeed can do, must be right, and that the whole duty of political men is comprised in three words—"Support the Ministry"—such are the bland accents which compose the dulcet notes of "linked sweetness long drawn out," and which ever vibrate grateful, seldom unrequited, on the Ministerial ear. But that they beguile the reason while they charm the sense,—that they lull their victim to sleep in the midst of peril,—and bring on a sad reverse, which they make more hard to bear by precluding all preparation for it,—are truths attested by all experience of all public men. In the present case their worst effect remains to be told. The deceiver tempts his dupes to their ruin, by inducing a belief that nothing they can do will forfeit the support of staunch friends; and it is discovered, when too late, that there may happen a catastrophe foretold by Lord Brougham in one of the Civil List debates, when he said—"That the people

would one day awake and ring such a peal in the ears of the Ministers as would be remembered, not merely to the end of their official existence, but to the last hour of the public life of the youngest functionary among them."

SPEECH

ON THE

MALTREATMENT OF THE NORTH AMERICAN COLONIES,

DELIVERED IN THE HOUSE OF LORDS,

FEBRUARY 2, 1838.

SPEECH.

How comes it to pass, my Lords, by what fate of mine is it, that as often as this great question of our Colonies comes on in this place—whether in the ill-fated Resolutions of last May, or in the interlocutory conversations raised by the expectations of this measure, or on the Address which announced its nearer approach, or now on the Bill itself which embodies it—I alone should be found to interrupt the universal harmony of your Councils—alone to oppose a Bill presented by the Government without any defence, but immediately taken up and zealously supported by their adversaries—alone to rise up in defence of the Constitution—alone to resist the breach of all law, the violation of all justice, in this high Court of Law, which distributes justice without appeal—alone to withstand arbitrary and tyrannical innovations, standing here, in the Senate—the Conservative Senate of a free country—alone to maintain the peace and stay the dismemberment of the empire, among your Lordships, who of all men that live have the deepest interest in peace, and the empire being preserved entire? The position which I occupy is surrounded with difficulty and embarrassment; the task I

perform is a thankless one; but I will not—I may not —abandon the post in which my duty has planted me; and I am here, at the last hour of the hateful conflict, again attempting to discharge this ungrateful duty. From so unequal a contest I may retire defeated, but not disgraced. I am aware that I may gain no advantage for those whose rights I am defending, but I am well assured that I shall retain the approval of my own mind.

When the question of Canada was last before us, I purposely avoided following the Noble Secretary of State over the ground to which he invited me, because I knew that another opportunity would occur for discussing the provisions of the measure, the outline of which he then gave by anticipation. That occasion has now arrived, and I have attentively, and, as became me, respectfully, listened to the statement of my Noble Friend.* I find that he has said in explanation of the Bill—nothing; in defence of the Bill—nothing. Not a gleam of light was cast by him upon its darker places; nothing was said to clear up the obscurities which are remarked in its arrangements; nothing to reconcile the incongruities with which it abounds; nothing to make a measure acceptable, which all allow to be harsh and arbitrary; nothing to show why it is introduced now rather than at any other time. In short, nothing whatever is urged in defence or in palliation of the Government's Policy, save the very able, and on that portion of the subject, the very temperate speech of the noble Earl† opposite, an avowed adversary of the Government on all other questions. And it must be granted that the noble Earl anxiously confined his support to the measure itself, and suffered no portion of his eulogy to overflow upon its authors. Taking un-

* Lord Glenelg. † Earl of Aberdeen.

der his protection the offspring of the Cabinet, which had been abandoned by its parent as soon as it saw the light, the noble Earl fosters it with no stepmother's care, plainly shewing that had such a thing not been engendered on this side the House, we should have had it produced on the other. Before going, however, to the arguments for the measure, I must advert for a moment to the course pursued by the noble Earl in following up the noble Duke* and noble Earl's† protest against having it conceived that their approval of the Bill implied any approval of the Government's conduct, on which they intended afterwards to pronounce their free opinion. That opinion has now indeed been very freely pronounced by the noble Earl; and in listening to it, I could not help reverting to the extreme offence taken by my Noble Friend a few nights ago at the freedom of my remarks upon the same subject. I could not help recollecting the elaborate contrast which these remarks called forth between my conduct towards old colleagues, and the noble Duke's who had so chivalrously come to the defence of his opponents—coupled with the panegyric pronounced, God knows most justly, on the vast superiority of the Duke's, mind to his of whose attack the Noble Secretary of State so bitterly complained. I really suspect that to-night, if any such comparisons are instituted between me and the noble Earl, I may look forward to a more favourable verdict from my Noble Friend. Not that the professions or the tone of the noble Earl have been less friendly than those of the noble Duke; for he promised to treat the Government with charity. My Lords, the noble Earl's is not that charity which covers a multitude of transgressions; but rather that which covers a multitude of attacks. Any thing less kindly I

* Duke of Wellington. † Earl of Ripon.

have seldom heard than the performance of this fine promise—any thing more bitter to taste than the fruit that followed a blossom so fair to behold. I am in hopes that it may by its contrast with my milder rebuke, have the effect of restoring me to the affections of my Noble Friend. Of this I am quite certain, that he would fain I interposed to rescue him from the hands into which he has now fallen; and to deliver him from the Earl, as the Duke before delivered him from me. He must be most anxious to be saved from the charity of the noble Earl, and as for the forbearance he promised, why it was really worse to bear than the charity itself. He would not even give the conduct of Government the poor praise of being systematically wrong.—It is not a system of delay, said he—it is a practice originating in inveterate and incurable habits of wavering, vacillation, and infirmity of purpose—and all this applied to describe the conduct of a great Minister in a great emergency, which called imperiously for the very opposite qualities—and this, the noble Earl's way of shewing his forbearance in the exercise of his charity.

Having endeavoured to set myself right on the personal matters connected with this question, and so removed the trivial parts of the subject; the way is now cleared for arriving at the important part of the argument; and I approach this, I confess, with some degree of anxiety, fearful of wearying your lordships by repetitions which it is hardly possible to avoid. The conduct of the Canadian Assembly is attacked again—that body is condemned by my Noble Friend for an abuse of their privileges—by the noble Earl, with more accuracy of expression for a breach of duty in refusing supplies—it is indeed the whole defence of the measure before you. Both these noble Lords contend, that after such a refusal in Canada, there is but one course to be taken here—to suspend

the constitution altogether. The powers you gave the Colony are abused: therefore take away the constitution—not, observe, resume the powers that have been abused—but take away all powers together. That is the argument, neither, as I think, very conclusive, nor even quite intelligible. The noble Earl praised the proceedings of the Committee that sat in 1828, and quoted the Assembly's words in order to prove that the Colonists were then satisfied and grateful. No doubt they were, because their grievances were considered, and redress was promised. The same kindly feelings continued not only till 1831, but after that year; they were even increased by the great measures of that year, which gave them the controul of the supplies—the power of the purse. What were those complaints which then arose against them? They had been told that whatever grievances they complained of, the power of refusing supplies gave them the means of obtaining redress—that they no longer were mocked with the name of the English constitution, but had the reality conferred upon them, with all its rights. The power which we told them we had thus bestowed, and boasted of our kindness in bestowing, the short-sighted, simple-minded men, proceeded to use, as if they really believed they had gotten it! Innocent individuals! to believe what you told them, and act upon the belief! to believe you when you said they might give their money, or might withhold it, as they chose—and they chose to withhold it! to fancy that you meant something when you said they could now stand out for redress if they had any thing to complain of—and then to stand out in the very way you had said they might! You give them a specific power for a particular purpose, and the instant they use it for that very purpose, you turn round upon them and say—"Saw any one ever the like of this? Were ever men

before so unreasonable? You are absolutely doing what you were told you had a full right to do whenever you pleased—Why, you are exercising the very rights the Constitution gave you—you are using the privileges we bestowed, and using them for the purpose they were meant to serve—you are therefore abusing them—you are acting by the strict letter of your new Constitution—therefore you are unworthy of it, and we shall instantly take the new Constitution away, and not only the new, but the old, which you have had for near half a century." Such is the mockery—the unbearable insult which you have put upon this people. First, you boast of having given them the power of the purse, and then the first time they use it, you cry out that they are acting illegally. It turns out that this power of granting or refusing supplies, was all the while never intended to serve any other purpose than rounding a period in some conciliatory Royal Dispatch from Downing Street, or some gracious Vice-regal speech at Quebec. The real meaning of the whole was simply this.—You shall have the power of doing as you choose about supplies, but always upon this condition, that you shall choose to do as we please. You have the option of giving or refusing, but understand distinctly, that if you exercise it in any way but one, you forfeit it, and with it all your other privileges.

As for the noble Duke,* I can far more easily understand his course upon the present occasion, because he singly opposed the Bill of 1831, and entered his protest upon our Journals. He objected altogether to giving the power over supplies which that Bill bestowed. But when I turn to my Noble Friends, the authors of that Bill, they who gave that power, what

* Duke of Wellington.

am I to think, when I find them crying out treason the instant it is used? Nay, I find them not merely complaining of its use, but because it is used, they take away, not only the power itself, but the whole Constitution given by Mr. Pitt's Bill of 1791, or rather Lord Grenville's—for he was the author of the Constitution—and substituting in its stead what they themselves allow to be an arbitrary and tyrannical form of Government. The crime charged upon the Canadians, and for which they are to be punished by the loss of their free Constitution, is refusing supplies. Instantly the Resolutions are passed. The noble Earl* confesses that those resolutions are calculated to harass and vex the Canadians. Then their natural consequences follow; the Canadians are irritated, and no precaution whatever is taken to prevent them from revolting; not a man is sent; not an order issued; not an instruction forwarded; not one line written; not one word spoken, to prevent what is freely admitted to be the natural consequences of the Resolutions! All this seems sufficiently marvellous; but this is not all: we now have a scene disclosed that baffles description and mocks belief—a scene which I defy the history of all civilized, all Christian countries, to match. A Governor—appointed to administer the law—to exercise the authority of the State for the protection of the subject—one commissioned to distribute justice in mercy—whose office it is above that of all mankind to prevent crimes—and only to punish them when it exceeds his power to prevent their being committed—he who, before all, because above all, is bound to guard against offences the people committed to his care—he who first and foremost is planted by the Sovereign in authority to keep the people out of doing any wrong,

* Earl of Aberdeen.

that the law may not be broken, and there may be no evil-doers to punish—he it is that we now see boasting in his despatches, wherein he chronicles his exploits,—boasting yet more largely in the speech he makes from the throne which his conduct is shaking; to the people whom he is misgoverning,—boasting that he refrained from checking the machinations he knew were going on;—that, aware of the preparations making for rebellion, he purposely suffered them to proceed;—that, informed the crime was hatching, he wilfully permitted it to be brought forth;—that, acquainted with the plans laying by traitors, with the disaffection hourly spreading, with the maturity every moment approached by treason, with the seductions practised upon the loyal subject, with the approach each instant made by the plot towards its final completion, and its explosion in a wide spread revolt:—he, he the chief Magistrate and Guardian of the peace and executor of the law, yet deemed it fitting that he should suffer all to go on uninterrupted, unmolested; should turn a deaf ear to the demands of the peaceable and the loyal for protection, lest any such interference should stay the course of rebellion; nay, sent away the troops, for the express purpose of enticing the disaffected to pursue and to quicken the course of their crimes! Gracious God! Do I live in a civilized country? Am I to be told that such is the conduct of a Parent State towards her children of the Colonies? Is this the protection which we extend to the subjects over whom we undertake to rule on the other side of the Atlantic? Does it after all turn out that our way of governing distant provinces is to witness disaffection, and encourage it till it becomes treason; to avoid all interference which may stay its progress; to remove all our force, lest it might peradventure controul the rebellious, while it comforted and

protected the loyal? The fact was known, but the plan is now avowed; and the fatal result is before the world. Blood has been shed; but not on one side only—the blood of the disaffected has indeed flowed; but so also has the blood of those whom our wicked policy had suffered traitors to seduce. It was not until that horrid catastrophe had happened, that the King's peace was allowed to be restored! I am filled with unutterable horror and dismay at this scene! I appeal to the Bench of Bishops! I call upon them that they lay this matter to their hearts, and reflect upon the duty and the office of a Christian man. Shall he be held guiltless, be his station what it may, if he allows sin in others whom he has the power to save from it, much more if he takes measures for ensnaring his brother into guilt, that he may fall, and pay the penalty of his transgression? How much more, then, if he be a ruler of the people, set over them to keep them right! I call upon the reverend Judges of the land to frown down by their high authority this monstrous iniquity! Let them tell how they deal with the men who come before their tribunals, not as vindicators of crime, and enforcers of the law, but as tempters to seduce the unwary, and make him their prey! Let them describe to us those feelings which fill their breasts, when the very scum of the earth's scum is cast up before the judgment-seat,—that indignation which agitates them, and seeks its vent upon the head of him who might have prevented the law from being broken, but prefers, for some sordid purpose, standing by to see the offence perpetrated, and then drags his victim to justice! That indignation they must now transfer to this place, and pour it upon the supreme ruler of a province, who has the courage to boast that such has been his conduct towards the people committed to his care; vaunting of such misdeeds to the Sovereign who employed him, and to the subjects

whom he misgoverned in the trust which he betrayed. It is well for him to speak with regret of the blood thus spilt—well to lament the gallant Colonel Moody thus foully slaughtered, and who would never have been attacked, had the troops been left at their post whom the Governor made it his boast that he had sent away! Possibly the whole may be the after-thought of a vain man, which he never would have uttered had the revolt not been put down. But assuredly, if the force had remained, we should have had to rejoice in its prevention instead of its suppression; and instead of lamenting bootlessly the loss of the gallant men thus sacrificed, he might have had the better feeling to indulge of saving their lives to their country, and preserving instead of restoring the public peace which he was sent to maintain.

The same Governor, however, has not, as I find, been satisfied with a civil war; he must needs do his best to endanger the peace with the United States. He has threatened that powerful neighbour with hostilities. It appears that the neutrality of the American territory has been violated, nor could such an event excite surprise. A volunteer force must always be less easy to controul, and more prone to commit excesses, than those regularly disciplined troops who were sent away at the time their services were most indispensable. The noble Duke* expressed himself satisfied with the force in the Canadas, upon the authority of military men whose opinions he had taken. No one is more ready than I am, to be guided by such authority—that is to say, upon all military questions. If we are asked whether a certain number of troops be sufficient to defend a post, or even to put down a revolt which has actually broken out, to the opinion of military men I will bow—not so

* Duke of Wellington.

where the question is, what force should be kept in a province in order to prevent all revolt from taking place: that is a question of civil and not military polity. Still more if the question be, whether it is fitter to keep down all rebellion, than to wait till it rages, and then suppress it—that is no more a military question than any of those matters which daily occupy the attention of Parliament; no more than a bill relative to police, or to any other department of the civil government of the country. The noble Earl,* with much good sense, referred to a high authority, and cited a very sound opinion upon this grave and important subject, when he repeated the valuable saying of an eminent man, that "a far less force might be required to put down a revolt than to prevent one." The charge I now make runs through the whole of the question before us; and one more serious cannot be brought against any Government. The Ministers are accused, and as yet without offering explanation or defence, of having occasioned, by their own incapacity and that of their emissaries, a civil war, the effusion of innocent blood, and the seduction of loyal subjects from their allegiance. Upon the same gross neglect, and the necessity of employing an undisciplined and insubordinate rabble, is also charged the rupture with America, to which that neglect led, not indirectly, and as a remote consequence, but by a plain, direct, short route, which might all along have been easily seen and closed up. My lords, I most deeply lament any occurrence as most disastrous and appalling, which can endanger our relations of peace and amity with the United States. But I would not be understood as thinking that this most untoward occurrence will lead to a rupture, though I fear it will exasperate men's minds, and embitter the feelings, al-

* Earl of Aberdeen.

ready not too kindly, which the last American war left behind it. I know, however, the good sense which, generally speaking, prevails among the people of America—the sound policy which, for the most part, guides the councils of its government. Long may that policy continue!—long may that great Union last! Its endurance is of paramount importance to the peace of the world—to the best interests of humanity—to the general improvement of mankind. Nor do I see how, if any disaster were to happen which should break up the Union, considering the incurably warlike nature of man, the peace of the New World could long be maintained. But in the present case, met, as I have no doubt these wholesome dispositions towards amity will be, by corresponding sentiments on this side of the Atlantic, I cherish the hope, that after discussion, and explanation, and conferences, and negotiations, satisfaction will be yielded where outrage has been offered, redress will not be withholden where injury has been done, and the occasion of quarrel for the present be avoided. But there will not be an end of the consequences that must inevitably follow from this unhappy affair. The public mind will be seriously and generally irritated; the disposition to interfere with us in Canada will become far more difficult to repress; and a government, at all times feeble to controul the conduct of individuals, will become wholly impotent against so prevailing a spirit of hostility. All these mischiefs I charge upon the same inexcusable, inexplicable neglect, which has left Canada bare of defence against the progress of discontent, at the moment when your rash, violent, headlong policy, had excited the universal resentment of your American subjects.

But your own faults are, with unparalleled injustice, to be laid to the door of the Colonists; because you have mis-governed them, and alienated their affections,

they are to be punished by the loss of their free constitution. Now, grant even that some portion of them have no justification and no excuse for their conduct,—I ask you how you defend the policy of punishing the whole community for the errors or the offences of a few? I will not here stop to solve the problem, what proportion of a people must sin before you are entitled to visit the whole with penalty and coercion; but I will ask you to recollect the argument used a few days ago by the Ministers, when I complained of no troops having been sent to preserve the peace. The outbreak was then represented as a mere trifle; an affray in which but few of the people, but a handful of men, had taken any part—it was confined to a corner of the province —to the banks of the Richelieu alone—while all the rest of the country was peaceable, loyal, and firm. In Upper Canada not a soldier was wanted, and the Governor had sent every man away, returning to the inquiry, how many he could spare, the vapouring answer, "All." Even in Lower Canada, six counties out of the seven were in a state of profound tranquillity, and but a few parishes in the seventh had shewn any signs of disaffection at all; almost all else was loyalty, devotion, and zeal. Such was the ministerial statement last week. Then how do you propose to reward all this loyal devotion and patriotic zeal? By depriving, not the criminal and seditious portion of the people, but the whole community of their rights;—by punishing, not the one county where the peace has been broken, but the other six also, where perfect tranquillity has reigned uninterrupted. And you intend to take away, not only rights that have been abused, not only privilèges that have been too rigorously exercised, but all the rights and privileges together, which for near half a century the Canadians have enjoyed. They are told, that for the transgressions of a few the whole liberties of the

people are at an end; and my Noble Friend himself,* a well-known friend of liberty, an advocate of popular rights, is to proceed among them in the character of Dictator, to enforce the act for establishing among them a despotism never before known in any part of the British dominions. But without stopping to inquire longer into the justice of this policy, let us only ask whether or not it is consistent with our conduct towards other portions of the people—whether or not we treat all parts of the empire in this kind of way? Is it the course we undeviatingly pursue every where, through good report and through evil report? Suppose we had to deal with a province situated not three thousand miles off, but almost within sight of our own shores; inhabited, not by half a million, but seven or eight millions of people; not unrepresented in Parliament, but sending over above a hundred zealous and active delegates to speak its wishes and look after its interests; and suppose that of these, a large proportion, say not less than seventy, were the sworn allies, the staunch friends, the thick and thin supporters, the unhesitating, unscrupulous voters of the very Administration which has been forging fetters for the Canadians—the remote, unfriended, unrepresented Canadians—how would the same Government have treated the portion of the empire now called Canada, but which would then have borne another name? Suppose the leader of the seventy faithful adherents, the Mons. Papineau, as he is now termed, the zealous and valuable coadjutor of the Ministers, should take up the question of an elective council, should strenuously exert himself for its success —I must here use a European expression to be understood—should agitate for it,—would his urgent demands be treated with scorn, and the prayers of his

* Earl of Durham.

countrymen and followers be rejected with disdain? My Noble Friend, who represents the ministry elsewhere,* has furnished an answer to all these questions. Quoting from Mr. Fox, and greatly exaggerating that great man's meaning by taking literally what was said loosely, if seriously, my Noble Friend has laid it down, that in Irish affairs there is but one rule for governing the people; and what do your lordships think that golden rule is? By doing what is right and just? By pursuing the policy which the interests of all require? No such thing! The rule is far simpler than that. By administering, as my Noble Friend on the cross bench did,† justice tempered with mercy—evincing at all times the most watchful care of the people's interests, mingled with the most undeviating condescension and kindness of demeanour towards their persons—at once endearing himself to them by the frank urbanity of his manners, and taking care that their best interests should be unceasingly promoted—doing them justice, securing them right, but at the same time holding the balance equal, with a firm, a manly hand—and never, for any consideration, abdicating those functions of a Government from which its very name is derived? Nothing like it! What, then, is my Noble Friend, the Home Secretary's rule for governing a people? Is it to do what you ought by them? to give them what is good for them? to let them have what you ought to give, and nothing more? Oh no such thing! but it is to let them have just what they themselves wish; to do as they bid you—as they, the subjects, bid you, their governors; in a word, to let them save you the trouble of governing them, by leaving them to govern themselves. That is the rule applied to a country which is close by, with six millions of men whom one common

* Lord John Russell. † Marquess of Anglesey.

sentiment binds together, who follow one concentrated and individual influence, and who send seventy voters to the aid of the Ministry in the other House. The rule for dealing with them is, "Give them all they ask: if an elective council, let it be elective; if a life council, be it for life;—just as they please." But for Canada, far off, thinly peopled, and without the fraction of a member in either House to make its grievances known, or give expression and force to its desires, another rule prevails,—"Refuse all they ask; turn a deaf ear to every complaint; mock them with hopes never to be realized; insult them with rights which, when they dare to use, shall be rudely torn from them; and for abiding by the law, in seeking redress of their wrongs, punish them by the infliction of a dictator and a despotism." We have all seen, or we have read, of the contrast between a parent and a stepmother in the treatment of the child; the contrast between tenderness, self-denial, self-devotion,—and cruelty, self-indulgence, studied neglect. The one exhausts every resource of kindness and conciliation, anticipates all wants, yields to each wish that ought to be granted, studies to prevent offences by judicious training, and to reclaim from error by gentleness alone; nor ever has recourse to punishment until all means of prevention fail, and the safety of the cherished object forces her to do violence to her feelings rather than neglect her duty. But I have known conduct the reverse of all this. Who indeed has not heard of the stepmother—watching for the occasion of quarrel; taking offence at every thing and at nothing; fostering any little failing of temper in the child till it ripen into disobedience, and furnish the pretext for inflicting the wished for punishment; alternately too indulgent and too severe; by fits and by caprice harsh and gentle; now flinging to it some plaything, and the instant the child uses it flying into a

fury, and snatching it away, and giving vent to anger by punishment or by restraint; now visiting on the offspring the faults of her own mismanagement; and never for an instant pursuing a steady, or a just, or a rational treatment. These things I have witnessed, as who has not? But never have I known an example of contrast so marked, so violent, so outrageous, as between the parental care of Ireland and the stepmother treatment of Canada.

The act of unprecedented oppression which Lord Durham is commissioned to execute, is, I find, explained and illustrated by the publication of the instructions under which he is to be sent out; and when I survey this strange document, I am sure I find it difficult to say whether the tenor of it or the production of it is the most unaccountable. I question if so extraordinary a proceeding altogether has ever yet been witnessed, as the publication of this paper. The Ministers have made public in January the orders which they intend to have executed next May. It is one of the great difficulties attending an extended Empire, that the orders issued for the government of its distant provinces can hardly ever be executed in the same circumstances in which they are framed, because a considerable time must needs elapse between their being dispatched and enforced. But is that a reason for unnecessarily incurring the unavoidable difficulty, by sitting down—did mortal man ever before dream of such a thing!—by sitting down at the Colonial Office in January, and drawing up the orders in all their detail, which are to be obeyed by the emissary in May or June—when that emissary is not to leave the country before the month of April? How can my Noble Friend know that he will be of the same mind in April, when Lord Durham is to set sail on his hopeful mission of conciliatory coercion? The measure

out of which these resolutions have arisen, has already been changed three or four times over in as many days, if report speak true. First the Ministers wavered a little; then they affected to have made up their minds; and having done so, they no sooner declared that nothing should move them from their fixed purpose, than they suddenly departed from it altogether, and adopted a totally different course, at the dictation of the Opposition in the Commons. Hesitation, uncertainty, wavering, delay, mark the whole course of their proceedings. It extends to the noble person who is to execute these projects in Canada. My Noble Friend is not to set out on his progress towards the spot where disaffection is abroad, and insurrection has broken out, until the weather is fine. While every week is of incalculable importance, April is the time coolly appointed for his sailing, and it may be later. This extreme deliberation should seem to indicate no great apprehension that the Colony is in such a state as affords any justification of a measure like the one propounded for its coercion. The noble Earl* has mistaken what I formerly said of my Noble Friend's powers. I never pronounced it as a clear matter, that he should at all events be ordered to grant instantly an Elective Council. But I did maintain that unless he goes armed with a power of this extent, to be used if he shall see fit, his going is a mockery both of himself and of the Canadians; and that neither he nor this country can reap honour from his mission. But no power of this kind, or indeed of any kind, is to be given him. These Instructions are, from the beginning to the end, Inquiry, and nothing else. They set out with stating that it may probably be found necessary to adopt some Legislative measures of a comprehensive nature, for effecting a permanent

* Earl of Aberdeen.

settlement of the Canadian question—but what these measures are likely to be there is no intimation given; indeed the plain implication is, that they have not yet been discovered; and the Instructions proceed to describe how the information is to be procured on which they may be framed. The Committee or Convention is to be formed, and then my Noble Friend is to bring before it various subjects on which he is to ask for their opinion and advice. The first is the matter in dispute between the Upper and Lower Provinces. The next subject of deliberation, it is said, will be furnished by the act of 1791, with a view to examining how its defects may be corrected. Then follow some other heads of inquiry in their order—the mode of defraying the expense of the Civil Government—the state of the law affecting landed property—the establishment of a court for trying impeachments and appeals. On all these several subjects the new Governor is to inquire; and what then? To determine—to act—to do any thing that had not been done by his predecessors? No such thing; but to report to the Government at home, exactly as they did before him. Why, have they not had reports enough? Had they not the Committee of 1828, with its ample investigation and voluminous reports? Had they not the Committee of 1834, with such a production of papers from the Colonial Office as never before was made to any such tribunal, and a report in proportion full to overflowing? The labours of these two Committees, sending for all persons, examining all papers, searching into all records, were not deemed sufficient to slake our boundless thirst for knowledge, and a Commission was dispatched to inquire on the spot. They hastened thither, and inquired for years, examined all subjects, differed upon them all, recorded their disputations in long arguments and elaborate protests, remitted the volume that contained

the produce of their labours and their wranglings, and put their employers in possession of a whole body of controversy and of decisions, each Commissioner generally differing from his colleagues in the views he took of the argument, and frequently also from himself, but all agreeing in the conclusions at which they arrived, by the course of reasoning one way, and deciding another. Will not this satisfy us, insatiable that we are? Can we hope for more argumentation and more discrepancy from one inquiring man than from three? I defy any one, be he armed with powers ever so dictatorial—let him engross in his own person all the powers of his station, and be his own Master of the Horse into the bargain, to surpass the celebrated inquiry and report of Lord Gosford, and his learned and gallant coadjutors. I had vainly imagined that all the inquiry of the last three years might have been enough to satisfy the greatest appetite for delay and inaction; but I find I was deceived; we are still to falter and pause; the hour for action recedes as we advance; and the mighty measure of abrogating all law, and creating a dictator, ends in sending out one Lord to renew the inquiries which had been making for three years under another.

I have uniformly stated my conviction that it is the duty of the Government here at length to make up their minds and pursue some intelligible and consistent course towards the Colony—above all, that sending Lord Durham thither without the only power which can ever be of the least use towards attaining the object we have in view, is a mere pretence for new delays. The alarm expressed at that power by the Noble Earl* is to me incomprehensible. An Elective Council, he says, means the severance of the Colony. I have always held this

* Earl of Aberdeen.

to be a benefit and no loss, provided it can be effected in peace, and leave only feelings of kindness on either side. But I deny that the giving an Elective Council can possibly produce such a consequence. Men commit a great and a palpable mistake when, arguing from the analogy of the Parliament of England, they transfer to Canada the ideas connected with our Upper House. In the Colony there is no aristocracy, nor any thing like an aristocracy—consequently the materials of an Upper House are there wholly wanting. But a yet more remarkable difference arises from the relation of colonial dependency. Why is this House in which we sit necessary for our limited monarchy? It is because the Crown would, without its interposition, come into conflict with the People, represented in the Commons. The Monarch has no revenues but what he derives from the votes of that Lower House; if, then, he were to exercise his veto upon bills, all supplies would be stopt; and the Monarchy could not survive the shock were it often repeated, were not its violence mitigated by this Upper House being interposed between the other two branches. This House, by the influence which the Crown has in it, by its natural leaning towards the Court, and by its aversion to the extremes of popular opinion, relieves the Sovereign from the perilous office of refusing the measures sometimes pressed upon both by the representatives of the people. But the state of things in a colony is essentially different. There the Executive Government is not altogether dependent upon the supplies voted by the Commons—there the Commons have no more absolute power over the rest of the Government than they would have here, if Hanover, or some other dependency of the Crown, yielded a revenue of twenty millions a-year, which could defray such expenses as the Parliament might refuse to authorize. Consequently in the Colony, the Governor has

no difficulty in rejecting bills, and exposes the constitution to no shock by the exercise of his veto. He wants no Upper House to do for him what he can safely do himself, and to deaden the concussion occasioned by a collision between him and the Commons. Were the Colonial Council then elective, there would none of the effects ensue which must follow from making this House a representative of the people like the other. Were we chosen and sent here by the same body that elects the Commons, any one must see that the only consequence would be, our having a House of Commons divided into two sections instead of one, sitting in two rooms, and passing bills through nine or ten stages instead of four or five: the Government would be wholly changed, and a pure Democracy substituted in its stead. In the Colony, the reform of the Council or its total abolition would not alter one jot the nature of the Government, or impede its working for an hour. The Commons might refuse supplies because the Governor rejected bills—each party would for awhile stand out against the other; in the end a middle course would be resorted to, each party giving up a little and gaining the rest; and the supplies of the mother country, administered by her Parliament, would be forthcoming whenever the sense of the Government and people of England went along with the Colonial executive, to overcome any very unreasonable and pertinacious resistance of the House respecting the Colonial people. Unable then to discover the least danger from the change so much desired by all the Canadians, I deeply lament the short-sighted and inefficient policy of sending out a new emissary without the power of granting it, or even of entertaining the question; and I remain decidedly of opinion, that whether we regard his own credit and honour, or the interest of the country and the colony, he had far better not go there at all,

than proceed with mutilated powers upon a hopeless errand.

The Colonial experience, my Lords, of the Spanish Monarchy, fertile as it is in lessons of wisdom upon all subjects, is singularly so upon a question of this kind. There, once broke out, as you are aware, a revolt so formidable, and so extensive, involving the whole of the most valuable of the settlements of Spain, that it is still known at the distance of three centuries as the Great Rebellion. I allude, of course, to the revolt of the Pizarros in Peru, compared with which, were the war in Canada to rage with tenfold fury, it would be a mere nothing for danger and difficulty. The events of that famous passage have been recorded by the illustrious Historian, my revered kinsman, in that spirit of deep reflection for which he was renowned, and with a charm of style hardly exceeded by his celebrated narrative of Columbus's voyage, which it is difficult to read with a dry eye. The rebels had been eminently successful on all points; the revolt had raged for above a year, and had wrapt all Peru in the flames of civil war. At the head of his hardy and adventurous veterans, Pizarro had met the Spanish troops, and overthrown them in many pitched battles. The Viceroy had himself been defeated, taken, and put to death; the seat of Government was in the hands of the insurgents; and a combined system of revolt had been universally established, to the extinction of all lawful authority. In such an extremity, the Emperor Charles, a prince of vast experience, of practised wisdom in the councils both of peace and war; a ruler, whose vigour never suffered him to falter,—saw that there remained but one course to pursue. He resolved to send out a person with ample powers of negotiation and of command; and his choice fell upon Pedro de la Gasca, who had, though in no higher station than Councillor

of the Inquisition, distinguished himself by his ability and success in several delicate negotiations. He was recommended to the office by an enlarged capacity hardly to be surpassed,—an insinuating address,—manners singularly courteous to all,—a temper the most conciliatory and bland,—above all, a rare disinterestedness and self-denial in whatever concerned himself, and a singular devotion to his public duties. Of this he early gave an unequivocal indication, in peremptorily refusing the offer of higher rank in the Church, which the Emperor pressed upon him with the purpose of increasing his weight and influence in the arduous service entrusted to his hands; "But," says the historian, "while he discovered such disinterested moderation in all that related personally to himself, he demanded his official powers in a very different tone. He insisted, as he was to be employed in a country so remote from the seat of Government, where he could not have recourse to his Sovereign for new instructions on any emergency, and as the whole success of his negociations must depend upon the confidence which the people with whom he had to treat could place in the extent of his power, that he ought to be invested with unlimited authority; that his jurisdiction must reach to all persons, and to all causes; that he must be empowered to pardon, to punish, or to reward, as circumstances might require; that in case of resistance from the malcontents, he might be authorized to reduce them by force of arms, to levy troops for that purpose, and to call for assistance from the Governments of all the Spanish settlements in America." Powers like these seemed to the men of mere precedent in the Colonial office of Madrid, impossible to be granted to any subject,—they were the inalienable attributes of the prerogative, according to these official authorities—"But the Emperor's views," says the historian "were more enlarged. As from the

nature of his employment, Gasca must be entrusted with discretionary power in some points, and all his efforts might prove ineffectual, if he was circumscribed in any one particular, (as, for example, the granting of an Elective Council) Charles scrupled not to invest him with authority to the full extent of his demand. Highly satisfied (he adds) with this fresh proof of his master's confidence, Gasca hastened, *(much cheering attended the mention of this word)*—he *hastened* his departure, and without either money or troops, set out to quell a formidable rebellion." The result is well known, and it was conformable to the vigour and the wisdom that presided over these preparations. Gasca arrived in Peru without any suite, or any pomp whatever; he put in action the resources of his genius for negociation; dividing his adversaries by the justice of his proceedings, winning over many of all parties by the engaging suavity and mingled dignity of his manners, never making any sacrifice to temper or to selfishness, of his arduous and important duty, but gaining every where friends to his mission, while he hardly left an enemy to his person. His bold and uncourtly antagonist perceived that he was undone, if further time were given for the practice of diplomatic arts, alike strange to his nature and his habits. He rushed to the field, his proper element, and to those arms which were the only arts he knew. To his dismay he found that he had to cope with one whose universal genius for affairs fitted him for following up in action the councils of his provident sagacity. Gasca suddenly disclosed the result of the preparations which he had been making, while occupied in negotiating with the leaders of the revolt, and reclaiming the victims of their artifices. He equipped a fleet, met the cruizers of Pizarro, and captured them every where. He took the field against the veteran conquerors of the New World; he met

their chief, overthrew him in a pitched battle, made him prisoner, put him to death with his principal accomplices, restored peace and order to the whole province, and gave back to the Spanish Crown, rather than kept in it, the brightest of its jewels. To complete the glory of this great man, already so brilliant both in council and in arms, there wanted but one crowning passage, which should bestow upon him a yet higher fame, by shewing the genius that inspired his conduct, eclipsed by the virtue that governed it. Nor was this proof wanting. Master, by the fortune of the war, and by his unlimited powers, of the whole forfeitures of the rebellion, he distributed a far greater mass of wealth, in money, and mines, and land, and palaces, than was ever by any absolute potentate bestowed upon his followers or his favourites; and reserving not the fraction of a farthing for himself or his connexions, he retired to Europe, and rendered up his trust, leaving to his grateful Sovereign the payment of the few debts which he had contracted, and which his poverty disabled him from discharging. His reception by his country and his prince was all that might be expected from public gratitude for unparalleled services, and from unbounded admiration of the highest and most various capacity. But he retired into the privacy of his former life, and passed, (says Robertson) "the remainder of his days in the tranquillity of seclusion, respected by his country, honoured by his Sovereign, and beloved by all."

Having, my Lords, called your attention to the lessons which this memorable passage of Colonial history presents to the Government, as peculiarly applicable to the circumstances of the existing crisis, I will not any longer stop to dwell upon a picture, which, I fear, offers to the eye only sad contrasts in all its material features between the capacity and the vigour of former

and of present times. And here, too, I willingly retire from the contemplation of the whole subject—painful to view in every respect—lamentable in some of its parts—disgraceful in others. My closing words, my parting advice are, to retrace your steps, and do justice. Let the Government make the restoration of kindly feeling the main object of all their endeavours. To compass this let them go all lengths, and out of their way, in negotiating with the disaffected, and in ruling the Province. Let them largely mingle mercy in the administration of its affairs. Above all, never let them listen to those who would persuade them, like the Noble Earl,* that what might have been rightly granted at one time it is dishonourable to give now that the supplicant has flown to arms, and become a rebel. If those concessions were wrong before, so are they wrong still, and I call upon you firmly to refuse them,—but if it ever would have been just and politic to yield them, be you well assured that nothing has happened to make it less wise, and less right now, and the fame of England never will be tarnished by doing her duty. Make that your rule and your guide, and you may laugh to scorn the empty babblers who would upbraid you with the weakness of yielding to armed petitioners; you will show them that the concession is not made to the force of arms, but to the irresistible power of justice and of right. I devoutly pray that the end of all may be contentment and peace—that contentment and that peace without which outstretched empire is but extended weakness—which, if you shall not restore, all your victories in the council, in the legislature, in the field, will be won in vain—which, if you do restore, you may defy the world in arms, and despise its slanders as well as its threats.

* Earl of Aberdeen.

LORD MELBOURNE having expressed his satisfaction with the prudent advice offered by Lord Brougham, and in the soundness and wisdom of which he entirely concurred—proceeded to complain of the acerbity which characterised other parts of his speech;—said he had long perceived—had been aware three years ago that sooner or later it must come to this—that he felt thankful for his support in 1835, for his abstinence in 1836, and for his qualified opposition and partial support in 1837; adding that he felt no irritation in consequence of the different and more harsh course he now pursued,—and which no doubt arose from no personal considerations, but solely from public spirit, and from feelings of a patriotic kind.*

LORD BROUGHAM.—I purposely abstain on this occasion from going farther into the personal remarks of the Noble Viscount, because I will not thus interrupt the discussion of a great public question. But when he compares and contrasts my conduct towards the Government this session with that which I formerly held, he utterly and notoriously forgets the whole of the facts. Has he forgotten, can he have forgotten, that last May I both urged the same charges and recorded them on your Journals? I even pursued the self-same course of argument which has, I observe, to-night given him so great offence. He speaks of "acerbity." A person supposed to have used bitter remarks is perhaps not a judge of the comparative "acerbity" of his different observations—nor is that person, possibly, against whom they have been em-

* Lord Melbourne, in referring to the proceedings of Gasca and the Peruvian rebellion, designated Dr. Robertson as a florid, lively, and fanciful historian; a description, perhaps, as notoriously inapplicable as it is truly original, of that great writer, the chasteness of whose style is equal to the admitted accuracy and impartiality of his narrative.

ployed. But I venture to say, that of all I said this night, the portion which he felt the most bitter, and to which, be it observed in passing, he made not the least allusion, was my comparison of his conduct towards unrepresented Canada and well-represented Ireland. Well,—last May I drew the very same comparison, and nearly in the same terms—made the same quotations from the Ministerial speeches in the Commons—and recorded the substance of the comparison in my protest. My Lords, I indignantly and peremptorily deny that the motive or principle of my conduct is changed. But I know that the changed conduct of others has compelled me to oppose them, in order that I may not change my own principles. Do the Ministers desire to know what will restore me to their support, and make me once more fight zealously in their ranks, as I once fought with them against the majority of your Lordships? I will tell them at once! Let them retract their declaration against Reform, delivered the first night of this session, and their second declaration—by which (to use the Noble Viscount's phrase) they *exacerbated* the first; or let them, without any retraction, only bring forward liberal and constitutional measures—they will have no more zealous supporter than myself. But, in the meantime, I now hurl my defiance at his head—I repeat it—I hurl at his head this defiance—I defy him to point out any, the slightest, indication of any one part of my public conduct having, even for one instant, been affected, in any manner of way, by feelings of a private and personal nature, or been regulated by any one consideration, except the sense of what I owe to my own principles, and to the interests of the country!

SPEECH

ON THE

AFFAIRS OF LOWER CANADA,

DELIVERED IN THE HOUSE OF LORDS,

FEBRUARY 8, 1838.

SPEECH.

When I reflect on the position which I have occupied in this House during all the previous stages of this measure and of the proceedings connected with it in the last Session of Parliament, and compare it with the altered position in which I stand this day, I observe a contrast between the two which is at once very remarkable in itself, and, to me, pleasing and encouraging in no ordinary degree. I can no longer be said to stand here alone in denouncing this measure. I can no longer complain of being left unsupported in my opposition to its tyranny and injustice. I am no longer fated, alone, to have levelled at me, sometimes the lighter missiles of sarcasm and taunt, and sometimes the heavier artillery of statement, seldom, if ever, approximating to the shape or even semblance of argument. I no longer am to have all those launched at my single and unsupported head; for I now enjoy the gratification of knowing that I have lived to see truth make its way, and to find myself supported by some of the most respectable Members of your Lordships' House in what I should formerly have reckoned in this place, as it almost always was out of doors and in the other House of Parliament, the most hopeless part of my whole views. And if to be

supported at all,—if to be supported in denouncing injustice, in defending the law, and in standing up for the Constitution of England be grateful to me to-night,—and the more grateful it is, because quite new,—how is that satisfaction heightened when I find that, beside the respectability of those supporters in point of talents, experience, and character, who have lamented, as the one did, the arbitrary and unconstitutional nature of the measure; and who actually, as the other did, announced a determination to vote against it for its injustice,—those two Peers have both descended from and bear the honoured names of the greatest luminaries of the law,—two of the strongest props of justice who ever adorned this country, leaving to their descendants a prouder inheritance than the titles which they won for themselves and their posterity, in their own inexhaustible love for the liberties of their country, their fast adherence to its laws, and their abhorrence of injustice and oppression. I may well feel pleased with this change in my position. I shall now no longer be denounced by sneers, as the partisan of rebels, nor, by implication, as the encourager of rebellion; no longer be charged as taking part with revolt, nor be designated, by plain implication, as something like Cataline, for that I had rushed out of this House, as the senator of ancient Rome rushed from the senate, after he had delivered himself of a long, and apparently, by its effects, an irritating and successful speech against the great orator of those times,—the Lord Glenelg of that day. Thus encouraged and protected, I may well persevere in denouncing the gross injustice of this measure,—a measure outraging every principle of equity,—confounding the innocent with the guilty,—making no distinction between the wrong-doer and those who have aided in repelling him,—subjecting the whole province to the loss of its liberties, because a few parishes in a single

county have attempted an unsuccessful rebellion;—thus punishing as well those who, instead of revolting, alone enabled the Government to put that revolt down, and without whose aid they never would have succeeded in putting it down,—punishing them with the same loss of their liberties, which it is said the Legislature has a right, in what is called the exercise of a just severity, to inflict on the rebels themselves.

But, my Lords, we are now told that the delay observable throughout the whole of these proceedings, which began in March 1837, which continued in April, which ended in May,—a delay still perceivable in the month of June, and which may further be traced through the whole of the remainder of the year,—we are now told that this indecision and delay were not accidental, as some have presumed to imagine; that they were not unintentional, as others might suppose; that they arose not from any defect in vigour and natural activity, as a third class of reasoners might fancy; that they were not attributable, as the noble Earl opposite charitably surmised the other night, to an inveterate infirmity of purpose—an incurable habit of wavering and inaction—no such thing. It is all design, says the noble Marquess;* it is all virtue, it is all system, it is all the consequence of that natural but invincible repugnance which my Noble Friend† has felt, to enter upon any course which could be thought to savour of strong measures—of unconstitutional measures—of rash measures—of measures severe towards the colony; it is all because of his reluctance to encroach on the people's privileges—to suspend their constitutional rights. It may be so; there is nothing wonderful now-a-days. The longer one lives the less one wonders. It is just on the verge of possibility, that those who impeach and

* Marquess of Lansdowne. † Lord Glenelg.

those who defend this vile measure—friend and foe, combatant, bystander, and looker-on—have all been deceived and all mistaken the intentions with which her Majesty's Ministers have propounded it. Instead of a fault, the Bill may be a perfection; instead of an arbitrary and oppressive, it may be a mild, wise, and just policy, which dictates the present conduct of the administration. Is it so? It would be odd if it were true. Certainly nobody could have suspected it; and if my Noble Friend the President of the Council had not given the sanction of his grave and weighty authority to such a view of the matter, I should have been disposed to say—I will not use a harsh expression—that it was utterly impossible for any person of common sense to believe it, or of decorous character to speak it, or of ordinary powers of face, to hear it proposed and keep his countenance. But if such reluctance is shewn by these constitutional men to adopt harsh proceedings, ought they not to have been reluctant to pass the resolutions of last year? That was the time for being reluctant; but there was no hesitation then; they produced them on the 6th of March; and having once plunged, they were committed for ever. The time, it appears, for reluctance and delay was after all the mischief had been done. What is the fact? It is precisely three weeks back that they applied themselves vigorously to enforce the laws and to maintain justice; so that, from the argument of my Noble Friend, it would appear they were excessively harsh and violent, when they ought to have deliberated; and they were excessively slow, very reluctant, and most undecided, when they ought to have adopted a course, bold, vigorous, and decided. I will venture to predict that the whole proceeding will be continued in the same style in which it commenced. If it were reluctance that was shewn in the beginning, your Lordships may depend

upon it that you will find the same reluctance continued to the end. The disinclination which has been felt to bring in the present measure will shew itself in sending over so many thousand bayonets to carry it into execution. And truly, I now begin to understand why that which I before complained of has taken place. I asked, three weeks ago, how it happened, if it be necessary to send out a dictator to destroy the constitution of Lower Canada, because some few parishes in it have been guilty of irregular proceedings, that, instead of going over immediately, the noble emissary delays so long in faring forth to the place of his destination, waiting, it is said, for fine weather, as if rebellion looked to the almanack—as if state affairs depended on the barometer—as if the assembling of parish committees, district committees, and central committees were governed by certain times and seasons of the year, as in ancient days, when there was a regular suspension of arms on the approach of frost, and the campaign was not renewed till the second or third swallow came hovering around the camp. That observance, even in war, having been long since dispensed with, I was at a loss to conceive why, in these critical and pressing negotiations, it should be thought necessary to go by the weather guage. I was at a loss to conceive why my Noble Friend the noble Earl* was not to reach the seat of his government till the month of May or June. The light has now shone in upon me; I begin to comprehend it all. For surely, if her Majesty's Ministers feel a strong repugnance to this measure,—if they are afflicted with constitutional qualms on the occasion of its passing,—how much stronger must be the repugnance, how much more powerful the qualms of my Noble Friend, a great professor of free opinions, one whose language has al-

* Earl of Durham.

ways been so much more decided than theirs in support of popular rights and privileges, and who is to enforce the tyranny that we only legislate? It is as plain as path to parish church that the reluctance in him who is to execute is much greater than in those who framed the Bill. He cannot be persuaded to go till he has tarried so long as to satisfy the people of Canada of his extreme repugnance to the mission; so that when he arrives there he will have made it manifest to all mankind in the province, that his consent has been wrung from him like gouts of blood to administer an unconstitutional measure, and go out for a harsh and tyrannical purpose. Nay, I should little marvel were his qualms to get the better of him, and keep him at home altogether. To return, however, to the real matter under the consideration of your Lordships.

My Noble Friend,* who has been listened to, as he always is, in proportion as he deserves to be on all subjects, but on no matter more than this,—my Noble Friend differs from the noble Baron sitting near him, in his opinion as to the course which ought to be taken with a view to the common object of settling these important matters of difference and restoring peace in Canada. My Noble Friend says, that the settlement cannot be effected in this country, but must be accomplished in the colony. Does not my Noble Friend perceive, that though his opinion may be sound in itself, it is not even the shadow of an argument in defence of the present Bill? My Noble Friend is supposing, if he does mean to use that argument in defence of the measure, that the present Bill gives the noble Earl the full power of supplying, on the spot, the measures that may be found necessary to an arrangement. Nothing can be more wide of the fact. It not only gives

* Lord Ashburton.

him no such power, but it is not directed to that point of the compass. It is, indeed, directed to the diametrically opposite point, to the point of inquiry. Judging from what we have seen, we must conclude that the inevitable result of the measure will be, not settlement, but inquiry and delay. Instead of sending out Lord Durham to settle the question, the measure and his mission will leave it more unsettled than ever. The Act, not satisfied with leaving out full powers, positively ties up his hands. Whatever new powers he may possess, will be not only not authorised by the Act, but contrary to the Act, and such as he cannot receive legally from any quarter, nor execute without a breach of the law. His instructions are, "Inquire, inquire, inquire; report, report, report." It is one thing, therefore, to ask me to agree with my Noble Friend, who wants an emissary with full powers to settle the dispute on the spot,—for he says, the dispute should be settled on the spot, not here;—and quite another thing to call upon me to approve of this Bill, which gives no such powers, which ties up the hands of the agent, and which renders it totally impracticable for him, unless he violate the provisions of the Act and the orders of his employers, to settle any one of the questions, or smooth in any manner of way the thorny difficulties which beset his path. It is the mere inefficiency of this plan, the utter discrepancy which exists between the powers of the Bill and the object to be accomplished, of which I complained, when I last entered upon this painful, tiresome, and all but hopeless discussion. In order to make an end of the dispute, even on the principle of my Noble Friend opposite,—in order to have the bare possibility of getting the question settled amicably and satisfactorily to both sides of the water,—it is necessary we should send a governor or negotiator with full powers, not only to treat, but to

grant as well as treat. But here you are hardly giving even power to treat; you have told Lord Durham to inquire; and, also, comparing the speech of my Noble Friend the Colonial Secretary with the Bill itself, you have disclosed what your notions are as to the speediness with which (the prescribed course being pursued) a settlement may be arrived at. How long does the Bill say Lord Durham is to be there, for the purpose of completing the inquiry? Two years. Two years, therefore, according to the framers of this measure, are the period during which inquiry shall last; and until the end of those two years, the Legislature of the mother country, which can alone adjust the question, is to be understood as not being in a state, as not having the capacity to settle it.

Lord Glenelg. Two years are the *maximum*.

Lord Brougham. My Noble Friend says two years are the *maximum*; but when I recollect the constitutional repugnance of the Noble Lord to all harsh proceeding, as displayed through these debates, and his habitual disposition always to do things on the latest possible day,—his rule being, never to do any thing to-day which can be put off till to-morrow,—I cannot but think that the *maximum* and *minimum* are likely in his case to be coincident quantities.

But, again, I ask, in common justice and consistency, why should we punish a whole people for the offences or errors of a few? It is perfectly evident that the Executive Council contemplate no such measure as this: that is demonstrable by the quotation which has been read by the noble Baron. Is the Bill, then, likely to work the purposes of conciliation? That question is answered already. Whatever information Government may wish to have—whatever further knowledge they may desire to obtain by the intervention of Lord Durham, for two years or two months, on this head,—no

further inquiry, no further knowledge is necessary upon this point. Unhappily, we know by anticipation the fruits this Bill will produce, by the fruits of the Resolutions of last May. If the resolutions taking the power of the purse, seizing the strong chest, and spoliating the money of the Canadians, because they, exercising the right we gave them, refused to give it up voluntarily themselves—if they produced first discontent, then disaffection, then revolt, and then actual rebellion, (and who will have the hardihood to deny that all these things have been the consequences of those resolutions? —can it be believed that this Bill—(and the resolutions are mere water compared with the drug which you are now commending to the same lips)—can it be expected but that this Bill, which carries the principle of the resolutions a thousand times further—which sends out a dictator, with a commission to rule over the inhabitants, without a single representative, without check or controul in the body of the colony;—that this most nauseous potion will be swallowed by those who turned with disgust from the mere ditch water of the resolutions? Good God! does any man profess to be sanguine enough to maintain, for a moment, that whereas the former resolutions occasioned revolt, the present Bill—I will not use harsh language, nor will I pretend to prophesy—the present Bill, of all measures, will be found to pour balm into the wounds which are rankling from the sore infliction of the resolutions of last May? I shall be grievously disappointed if my Noble Friend ever proceeds to Canada on such a mission, with such powers, with his hands so tied up as they are by the present Bill,—powerful only to hurt and to annoy and to insult; but impotent to heal or to soothe. Grievously, however, as I shall be disappointed if my Noble Friend consents to go forth on such an errand, —as an angel of wrath and with no healing on his wings,

—I own I shall not be disappointed, although I must feel grieved (as who will not?) if the consequences of the measure with which you are following up the Resolutions that began the mischief, are such as we shall all have occasion most deeply to deplore. The Bill seems framed as if to prevent my Noble Friend from exercising any power. I will give your Lordships an accurate, though it must be a compendious, sketch of this measure.

My Noble Friend is to make for the colony laws in a council of his own choosing; he is to make laws for the colony, but those are to be such as the Canadian Assembly, whose functions are suspended, would have been entitled to make if this Bill had not passed. One of the restrictions on the power of the Assembly,—a restriction imposed by the Act of 1791,—is, that no law can be made by the Colonial Legislature which is repugnant to or inconsistent with the Act itself. Consequently, here is one fetter. My Noble Friend cannot make any law not consistent with the Act of 1791. I presume that this fundamental but most restrictive provision of the Bill is intentional. I know that it has received the consideration of most accurate and experienced lawyers; and with the professional resources at the command of the Government, I have no doubt they have taken care that the Bill should be so framed as to accomplish the objects which they have in view. But this is not all: my Noble Friend is not allowed to make any law that trenches on any Act of the Imperial Parliament, or any Act of the Canadian Legislature, nor has he the privilege of repealing or altering any Act of either British or Colonial Parliament. Your Lordships will recollect the lumping description of the powers of legislation which my Noble Friend, the first time he addressed your Lordships on the subject, informed you he was to possess. He professed that he was to enjoy

an extent of power such as had never before been conferred on any man; but, instead of having more than ordinary powers, I doubt if ever a man was sent before on such a mission with so many restrictions and with so few powers. There is very little to empower, but very much to tie up and restrain, from the beginning to the end of this very singular Act of Parliament, which he so pleasantly fancied was to make him all but omnipotent, and which really makes him next to impotent. Then follows a whole list of exceptions as to money, as to electoral districts, as to the right of voting, as to the functions of the Assembly, as to the time and mode of calling it together, even as to dividing the unions of parishes, and counties, and districts, for the purposes of elections. With respect to all these subjects the whole of this ground is tabooed against Lord Durham's powers,—those high, ample, unparalleled powers, as he fondly believed them to be, and somewhat grandly described them. Lord Durham is to be confined, trammelled, and cooped up within the simple narrow sphere to which I have already directed your Lordships' attention: in truth, he is to see, and examine, and report, and nothing more. But there is another point to which I must allude. The laws which Lord Durham may make are to last, according to the provisions of this Bill, not till 1840, when the constitution is to be restored, but for two years afterwards, till 1842. This question then arises, which, I hope, has been well considered, and can be clearly answered:—What will be the relative positions of Lord Durham and the revived assemblies? Will the revived assemblies have the power of repealing or altering the ordinances of Lord Durham made during those two years? I have read the Act without being able to form a satisfactory opinion whether those ordinances might be repealed or altered by the Assemblies when their sus-

pended animation ceases, and when they come into life again in 1840. It rather seems as if Lord Durham's laws should continue in force four years and a half,—that is, till 1842; but there is no provision of this nature, "that they shall continue valid unless altered or repealed by the Assemblies."

I look on this measure as carrying within it, not the promise or earnest of peace and the chance of conciliation, but rather as sowing the seeds of war. I am not, therefore, very nice in examining its features, in surveying its lineaments, in looking to see whether there is any particular symmetry, or any great consistency, in the structure of its parts. I cannot help thinking, however, that when another infant, the origin of an Iliad of woes, was produced to the gossips of Troy, and when they looked on the interesting babe, they must have found much more beauty in it—(which is said to have afterwards been thought a compensation for all they had suffered)—than our gossips in these days, the three Presidents,—he of the Council,* he of this House,† and he of the Board of Trade,‡ are likely to do when they come, as I hope they will, to-morrow, to survey the offspring they are now ushering into the world. The symmetry, the consistency, and harmony of its parts will be found by no means remarkable. I shall offer no amendment. I take no interest in the bantling whatever; I view it with abhorrence; I regard it with feelings of disgust; I consider it a hateful progeny; I will lend it no helping hand whatever: if I did, I believe I should receive no thanks from those most nearly connected with it. I will examine it no farther; but I am satisfied of one thing—if its long delay had been lengthened out still farther, it would have been happy for this country, and happy for the

* Lord Lansdowne. † Lord Cottenham. ‡ Mr. P. Thomson.

colony. But I hope, before it is finally assented to, its features will be compared with the views I have just now flung out, in order that the other mischief may not take place to which I have shortly adverted, of not only sending out this measure with all its faults on its head, but stirring up a legal controversy, raising doubts and difficulties in respect of legality, to make our other proceedings still more intolerable.

The Noble Lord* opposite alluded to the policy and wisdom of establishing colonies at a time when the exclusive system of foreign powers shut out this country from commercial intercourse with their settlements. This is a subject to which, in early life, I have paid very close attention, and it has always been my opinion, that the system of colonising is highly favourable to commerce and national improvement in a certain stage of society. I hold the planting of colonies to be in the highest degree politic and wise in a commercial state, not merely in times when all other nations are doing the same thing, or adopting an exclusive system, and preventing you from commerce with their colonies, so as you can have no share in the colonial trade unless you have colonies of your own,—but also as an outlet for, and a stimulant to, industry, in early periods of society, when those stimulants and outlets are so few.

There is another and a most important benefit which Colonial possessions confer upon a nation. The estates acquired there by the inhabitants of the mother country add, incalculably, by their revenues imparted, to the wealth of that parent state. Men, in their youth, go to push their fortune in the colony; they succeed; they acquire property there; they return to their native land; they continue to draw the income from their colonial estates; and they acquire landed pro-

* Lord Ashburton.

perty at home, generally unimproved, which they cultivate by means of their colonial wealth. This intercourse is chiefly, and, indeed, almost entirely, maintained in the case of such colonies as the West Indian Islands,—for our Continental possessions in North America have always attracted emigrants who permanently change their abode, and on leaving their homes for the New World never think of returning to the Old. But the influence of West Indian wealth upon the resources and the improvement of this island is very manifest. You shall go to certain districts, especially in the northern parts of Great Britain, where, by the very names of the seats and the farms, you can distinctly trace that the capital which has cultivated those valleys, and covered the once barren heath with crops and with gardens, was derived from the plantations of the Antilles, or from the savannahs of South America. The advantages of such establishments are very different from those derived from colonies like those of North America, where there is no interchange of population, no non-resident proprietors; and where, consequently, the benefits are confined to commercial intercourse. The West Indian colonies are, for the like reasons, never likely to become independent, nor is it very likely to prove for our advantage that they should be. It is far otherwise with continental settlements, like the United States, or our remaining North American territories. These could not, in their earlier stages, exist without our support; and in our earlier state of society and of traffic, their dependence has been of great value. But when the interchange of produce and manufactures furnishes the stimulants to industry and accumulation in plenty,—when the colonies we have established are capable of standing alone, —when they are fit for the task of self-government,— when they can do without our aid,—as happily by the

eternal decrees of Providence, in the course appointed for art as well as nature, and society as well as art, we can also do without them, the wants and the powers of each happily coinciding,—the one being able to leave our care, and we able to carry on our commercial and other concerns without their aid—then it is, that we reap the rich harvest of all our former pains and tuition; for then we secure a natural ally,—a natural market—a people whose circumstances are such that they want what we have in superfluity, and produce in superfluous abundance what we want—the best definition of market profitable for both parties,—and, above all, they, having the same blood and origin—the same constitutional laws—the same language—the same manners—will be more or less our natural friends, our natural allies, and our natural customers; from those physical and moral relationships, those natural ties, which no severance of mere political connexion can ever cut through or even much loosen. It is the great benefit of Colonial establishments that, in different degrees and kinds, during their infancy, they help us as well as we help them, and, in their maturity, when separation becomes inevitable, the two independent states continue to help each other, in an increased proportion. See the prodigious increase of our intercourse with independent America, compared with that intercourse during our former political and proprietory empire over it, and you will be fully convinced of this. But let us remember that all these great advantages, for a long course of years at least, may depend on the temperate manner in which we quit the partnership, and the feelings in which the long subsisting tie is severed. If those feelings are of animosity,—if wounds are left rankling on both sides,—then we can no longer expect any thing like the natural, and what in all other circumstances, under the dispensation of a wise and

just policy should be the inevitable advantages of the future intercourse with the newly independent state. My prayer is, that we may so order our policy with respect to North America, as, when the hour of separation does arrive,—and sooner or later, by common consent, come it must,—we may be found to have done nothing that shall leave wounds to rankle, but that the relation of colony and mother country—the relation of temporary dependence and sovereignty, on either hand, ceasing in the course of nature, other relations may be substituted of one free state with another,—not enemies but friends,—and in the honest emulation of rivals, running together the great race of social improvement, with an emulation which the high descent of the new state makes her worthy of sustaining with the old.

SPEECH

ON THE CIVIL LIST

DELIVERED IN THE HOUSE OF LORDS,

WEDNESDAY, DEC. 20, 1837.

PREFACE

TO THE

SEPARATE EDITION OF THIS SPEECH.

This Speech is published separately in order to bring under the consideration of the people of this country, when they come to reflect seriously upon the late proceedings in Parliament, what it is that has been done with respect to the Royal Establishment, and in what manner this has been done. There is also reason to believe that many who bore a part in those proceedings were not fully aware of the state of the question. This is almost unavoidable when an important measure is carried through all its stages with great despatch; more especially when men entrusted with legislative authority, act under the influence of excited feelings, and do not give themselves time to reflect, that the funds upon which their generosity is exercised belong to others, for whom they are only trustees.

SPEECH.

ALTHOUGH I do not rise with the desire of opposing my Noble Friend's* motion, so as to take the sense of the House upon it, I am nevertheless desirous of calling the attention of your Lordships to the manner in which this Bill has been framed and has passed through the other House of Parliament, with the view of ascertaining how far a due consideration has been given to so important a subject, and of seeing if there do not exist at this hour substantial reasons for adopting a course different from the one that has been pursued. Against the concluding remarks of my Noble Friend, I will neither waste your Lordship's time nor degrade myself by making any defence. I am sure he did not mean to throw out any thing against me personally, or against those who may agree with me, as if by taking a different view of this measure we shewed ourselves less attached than himself to the established Constitution of the country, and were, to use his own expression, "insane" enough to put in hazard the benefits which it bestows, by seeking after some other untried form of Government. There is no question

* Lord Melbourne.

of the kind raised by the present discussion; all are agreed that a limited Monarchy such as ours, is better adapted to the present state of society in this country, and the existing circumstances of the European world, —more calculated to secure the great end of all government, the happiness of the people,—than those Commonwealths which have been established in other regions where they are greatly preferred even to our constitution, as being better suited to the wants and opinions of the community. Thus much my Noble Friend's somewhat needless observations have made it necessary to say, lest any one should fancy that they conveyed against those who disapprove of the present scheme, an insinuation of fondness for revolutionary doctrines, or a disposition to seek changes of a sweeping and dangerous kind.

I will now come to the matter before us, from which I have been drawn aside, and I begin by assuming that your Lordships are consulted upon the present occasion with the intention of really asking your opinion, and not as a mere form and empty ceremony; that you are appealed to as a deliberative body; that you are called upon to exercise your judgment, and that you have the duty laid upon you of exercising your unquestionable right to give the whole subject a full consideration. Now I am under the necessity of declaring, both that I can discover no sufficient reason for adopting the principle of this Bill, and making prospectively an arrangement of the Civil List which may last, as we all hope it will, fifty or sixty years; and that, even if the principle was a sound one, and it were fit to make such an arrangement, we have not before us the information which might have been communicated, to which we were clearly entitled, and without which it is utterly impossible to deny that we must, upon every view of the matter, be legislating in

the dark. Nor has my Noble Friend urged a single argument to the contrary. I agree in all the argumentative part of his speech; I dispute not one of his historical details; but neither his reasonings nor his facts have any bearing upon the question before us. Thus I nowise doubt, nor do I believe any one can be found who will doubt, that a very beneficial change was effected at the Restoration, when the Monarch, instead of bearing the whole expense of the Government, and enjoying the feudal and other hereditary revenues of the Crown, gave up these to the country, and received as an equivalent an income out of the taxes. No one has ever doubted for these last 150 years, that this was an improvement upon the former usage; and I cannot help thinking that my Noble Friend gave himself an unnecessary trouble, when he laboured to dissuade your Lordships from recurring to the ancient feudal method of supporting the Monarchy. So too of the change in our financial arrangements introduced after the Revolution, and which led to the necessity of Parliament being regularly held every year, so that the whole business of the Government must be transacted there. That this, like the former, was a great improvement, I take for granted nobody will be inclined to dispute. Then again as to the third of those changes dwelt upon by the noble Viscount, the plan of separating the expense of the Royal household from the other charges of the Civil Government, first adopted at the accession of his late Majesty, I am not aware that there exists in any quarter the least disposition to deny that this too was an improvement upon the old method of mixing the whole expenses together, and classing them all, how various soever their nature might be, under the name of Civil List,—a method equally inconvenient and indeed detrimental both to the Crown and country. Upon all

these points, I must profess my entire acquiescence in every thing that has fallen from my Noble Friend; and to these points, his speech was wholly confined; but the matter in dispute between us, namely, the proposed arrangement, is left altogether untouched by him. I have heard not one word in support of the sums allotted by the Bill; nor in answer to the demand of information upon the amount of the Royal income; nor in defence of the proposal to grant a Civil List for the Sovereign's life; and in the absence of all explanation, and of all reply to what I urged nearly a week ago,—with no one fact stated, —no one argument adduced in support of the measure in any point,—I remain of the opinion which I then expressed, and which all the attention I have since devoted to the subject has only confirmed, that it is a most unwise, unbecoming, unstatesmanlike course of proceeding, to legislate upon such a subject prospectively for a period of perhaps half a century or more. What man can foresee,—what being with our limited understanding can pretend to foresee,—what audacity, let me ask, can inspire any one to foretel any thing however trifling, touching the state of affairs forty, thirty, aye even ten years hence? Yet here are we about to lay down a rule by which the expenditure of the Sovereign is to be governed, and the contributions of the people towards it fixed, as long as the reign shall endure. We are to ascertain at this moment for all that period of time, how much of each article that enters into the Royal expenses, shall be required for duly supporting the dignity and splendour of the Crown, and how much each article shall cost in monies numbered, we being of necessity in the dark, absolutely in the dark, as to any one of the circumstances in which this prospective arrangement must be carried into execution. Utterly ignorant of all that must determine

whether too much or too little, or only enough has been allotted—not pretending to know, or even to have the power of guessing at, any portion of the details which must decide this great matter from time to time —here are we taking upon ourselves to form an estimate; wholly depending on these unknown details, and by that estimate, fixing a Civil List for ages to come! In 1837, we are deciding what shall be a proper court establishment in all its branches for the Sovereign of England, in the year 1880 or 1890. Am I to be told that we can now have the means of divining any thing about a Court in those distant days? But are we in a condition to fix in all its details, what that Court shall be in an age to which the eye of fancy alone can pierce, so as to give objects their weight, and form, and colouring? Yet this is what we are about doing; we are acting as if we could tell what in an unknown age,—an age of which we can know nothing, except that we do not even know how far distant it may be,—what shall be required for the comfort of the Monarch,—what the establishment shall be which the unknown habits of that uncertain time may render necessary, and no more than necessary for the dignity of the Crown,—what shall be the cost of that establishment, decorous and needful, nor more than decorous and needful. And on such conjectures as these, or rather giving up all attempts at conjecture as utterly hopeless, and blind as to the future, and shutting our eyes with our own hands as to what we are about, we sit down to legislate as though men were not subject to change, as though time made no alteration in human affairs, or as though courtly state and circumstances alone were exempt from its inroads! What must be the inevitable consequence? In a little while, to take only the most obvious possibility, money may fall in value, and prices rise; then will come down the Minister of the day, and

remind us of the regard which is due to the maintenance of the Royal dignity, perhaps deprecating that "niggardliness of Parliament" to which my Noble Friend alluded in his retrospect.

LORD MELBOURNE said he had not alluded to the niggardliness of Parliament; his reference was to Parliament before the period of the Revolution.

LORD BROUGHAM.—I understood my Noble Friend to have made the allusion generally, and in connexion with a later period; although certainly, whatever might be said of the period before 1688, I am not aware of any ground for charging with niggardliness the Parliaments which have sat since that time. But I was about to say, that no sooner shall any change in prices take place, than down will come the Minister of the Crown, armed with a gracious message, and feelingly represent the necessity of providing additional income to meet the increased expenditure; and if the country should complain, pleading the bargain made by Parliament at the commencement of the reign,—if the people should presume to say, "It was contracted and agreed in 1837, that during your Majesty's life a fixed yearly sum should be paid, without any deduction on account of prices falling, or any reference whatever to any other benefit which you might receive from change of times; and therefore, although the change has turned out to be in our favour, or at least against you, you must keep by the bargain, as we should have been obliged to do had the event been the other way;"—what will be the answer instantly given to such a remonstrance? Why, that were Parliament to listen to such things, it would be niggardly, unmindful of the dignity of the Crown, indifferent about the decent support of the Royal Family, disposed to leave the necessary expenses of the Monarch unprovided for; and the result would be, if there is any trust due to experience—if from the past

we may now reason to the future—that the country will be overcome in the contest; give way, as it always has done; open the contract; make an entirely new arrangement in compliance with the new demand, and in accordance with the novel circumstances, and suffer no one to set up against it the final and conclusive nature, which is now, as it always has been before, ascribed to the proposed arrangement. All this happened again and again in the reign of George III.; and if it did not take place also in the reign of George IV. and William IV., this was in all probability owing to the short duration of their reigns: the former Prince having only lived ten years after his Civil List was settled in 1820; and the latter unhappily not much more than six years after the arrangement of 1830.

But it is said, that any departure from the course recommended, of a contract for the Sovereign's life, is wholly without precedent. Be it so; there is nothing in the plan I propose, of voting a Civil List for a limited time, more unprecedented now than those far greater changes which my Noble Friend eulogized so lavishly. I recommend no departure from former usage nearly so wide as the change which he justly described as most beneficial to all parties, at the Restoration, when the feudal revenues were commuted for a fixed sum, and the expense of the Government defrayed by the country. I recommend nothing like so great a change as that which my Noble Friend most justly praised, the entirely new manner of transacting all financial, and indeed all parliamentary business, introduced in the reign of King William. The change I recommend approaches more nearly the one to which he and I were ourselves parties in 1830, and which, though objected to at the time by some, appears now to have gained general approbation, since I hear not a word said against it, nor anything urged to shew, from the experience of those six or seven

years, that we should return to the former practice upon the present occasion. But when men speak of the precedents, and refer to the former Civil List arrangements as always having been for life, they ought to be sure that the circumstances are the same. Can any thing be more different than those of the present and the two last Civil Lists? The late King ascended the throne at the age of sixty-eight. George IV. was sixty at his accession. The present Sovereign is eighteen. So that we must go back to George III., before we can find any thing like a parallel case. But I confidently appeal to your Lordships, if there be any real similarity between the circumstances of the country now and in 1760? Instead of a public debt of less than a hundred millions, we have one approaching to a thousand; the expense of the peace-establishment has risen from five millions to two-and-twenty; and the revenue extracted from the people is no longer under ten millions, but above fifty; cramping their industry in every direction in which it is possible for taxation to be felt. In every particular the case of 1760 offers a contrast, rather than a parallel, to the present. But even if we were now in 1760, and had to make the arrangement for a Sovereign in the prime of life, with the experience of that arrangement, and our knowledge of the manner in which the plan worked, I ask, should we be tempted to repeat the experiment? What happened after the settlement of 1760? The Legislature said then, as the Legislature says now, that they were making, for the life of the Sovereign, a conclusive, unalterable arrangement with him. They told the people, as the people are now told, that the Sovereign was to have, by the year, so much and no more than was fixed, all the days of his life, happen what might as to prices, one way or the other; and men flattered themselves that at least with the reigning Monarch a final settlement had been

made. What followed this perpetual bargain? In less than ten years—I believe in the ninth year—after its date, a message comes from the Throne, setting forth that in consequence of the change of times the income settled had proved insufficient, a debt of above half a million had been contracted, and an appeal to the liberality of Parliament had become unavoidable. In short, the arrangement was found inapplicable to the altered circumstances of the Court or the Country; and the debt was paid of course. Well, in nine years more, at the most disastrous period of the American War, the year when France took part against us, it was discovered that a second series of changes had taken place; another load of debt, but larger in amount, had been incurred; another message was sent down; the final and binding contract of 1760 was a second time opened for the benefit of the same party, the Crown, to the detriment again of the other party, the Country; the new debt of above six hundred thousand pounds was paid off as before, and a new income settled on the Monarch. In the subsequent years deficiencies were again and again supplied by payments, though to a smaller amount. New arrangements were made under Mr. Burke's Bill, and afterwards in the early period of the Regency. All the changes thus freely made in the contract were for the advantage of the same party; while, as often as the other party claimed any relief from its provisions, the constant answer was, "The bargain cannot be touched; it is made for the King's life." And yet, in the face of all experience, and in disregard of all the dictates of reason and of common sense, we are going to commit the same mistakes that were committed in 1760; and being now as completely in the dark as those before us were then, we are about to make a compact which is to bind the country for half a century, and to bind the Crown only while it proves a benefit.

But if, at some future time, Parliament shall be charged with having made an improvident bargain for the country, let it not be said that they received no warning in their course! Let it not be said that no warning was given in the House of Lords, nor any attempt made to arrest such imprudence! And let this be borne in mind, that notice was in this place fairly and explicitly given of the consequences which may be looked for in a few years! And what are those consequences? If the arrangement now made shall turn out to be unfavourable for the Crown; if prices rise; if, from an altered state of society, or from any other cause, an increased splendour is deemed necessary to the royal dignity; little will it avail the people to plead the final character of the settlement of 1837. That character will go for as little as it has done in former cases of the same kind; it will go for absolutely nothing. But if it shall be found that money goes further than it does in the present day—if the quantity of the precious metals is increased—if in the progress of manufacturing industry the great staples of luxurious expenditure become cheaper—or if the necessaries of life themselves are more abundant from improvements in agriculture—if, and I trust your Lordships will suffer me to contemplate such a possibility—if it shall be found, that do what you will, you can no longer hold by the Corn Laws; if it should happen that the people of this country, among whom of course your Lordships are to be included, will no longer allow those Corn Laws to oppress them, will no longer submit to buy wheat or eat bread at the rate of 62s. by the quarter on this side of the channel, when as good or better may be had for between 30s. and 40s. on the other side; if your Lordships shall be compelled, whether you will or no—by the force of reason—to yield; if you should find yourselves unable any longer to resist the demands of the

country—when backed by the strength of argument; if your assent to the repeal of those laws should be extorted—by the hourly accumulating power of the resistance which all sound principle offers to their continuance, and you should at length give way, unable any longer to maintain the struggle against your own conviction and your patriotic feelings, and should repeal the law which keeps up the price of bread, and of labour, and of every one article that labour is concerned in providing; if from the combined effect of all these very possible changes,—the altered value of money, improved manufacturing skill, increased agricultural produce, abrogated restrictions upon the corn trade, to say nothing of accumulated capital,—all prices should fall a third or more, and every one thing which money can buy should become cheaper in that proportion—and the sum now bestowed as absolutely necessary for the Royal expenditure should thus be really worth so much more than it now is, and therefore so much more than is required for that expenditure—I ask any man capable of reflection, candidly to answer this short and plain question—what chance would there be of the Crown, or the Ministers of the Crown, or the Parliament itself, coming forward with a proposal to reduce by a third, ay, or by a thirtieth, the income now fixed, so as to give the country any benefit from the alteration produced upon its value by the course of events? Let any proposition, bearing upon the present settlement, be but hinted at, and what would be the instantaneous reply? The contract would at once be set up as being conclusive; and the argument so often used during George the Third's long reign would be again urged, that it was a bargain for the life of the Sovereign, not to be broken, or opened, or touched—a settlement conclusively binding upon the people—a bond which they never could shake off—irrevocably their law, and absolutely their

fate. In short, this is a bargain which, if the Crown finds it advantageous, must be adhered to through all times and all changes, with equal tenacity; but if any benefit should accrue to the country from keeping it, and the Crown should find its interest in breaking it, then it may be broken over and over again, just as often as is convenient for one of the parties, and for the protection of the other its value is that of waste paper.

But, my Lords, even if it were fitting and were prudent to follow once more this course, and pretend to fix the Civil List for the whole reign, I entreat your attention to the imperfect information which we have upon every matter the most necessary to be known before we can form any estimate of the income required. This much, I think, will at least be granted me, that the longer the duration of this arrangement is likely to be, the more it behoves us, in common decency, to know at the least all the facts which can at present be ascertained, and which bear upon the subject matter. But will it be believed, that upon the most important part of the whole we are utterly in the dark?—that upon the amount of the income we are settling, we are all totally without information? Incredible as this may appear to be, it is yet strictly true. The whole question before us is, how much shall be bestowed upon the Sovereign for the due maintenance of the Royal dignity? But, in order to ascertain this, it is absolutely necessary to know how much the Sovereign has already, independent of our gift. The measure of our gift is to be the necessities of the Crown; more than is required for the state and splendour befitting a limited Monarchy we have no right to grant; more than that there is no one thoughtless enough to dream of. If the Crown had nothing wherewith to meet the expenses, we might be said to know what we are doing when we fix a certain sum to meet the demand; but as the Crown has other

revenues, all that we are now about, is fixing a sum which, in addition to these, shall be adequate for the Royal occasions. Well, then, the amount of these revenues we know nothing whatever about. No one is disposed to make a niggardly provision; all are agreed that the income which the exalted station makes necessary, shall be given; but more than is necessary no one pretends to call for; and the question being, how much shall be added to a certain income in order to make the sum-total as much as is required, we are desired to answer that question without being told what the income is which is to be thus increased. We are only asked to do the impossible thing, of finding out how much must be added to an unknown quantity, in order to make a given sum—nothing more or less. It is no question whether L.385,000 shall be given or not, or rather L.395,000, for the sum proposed is L.10,000 more than was found enough for the two last Sovereigns—one of them no very rigid economist, and the other having heavy expenses which the country could not provide for; and yet it was found that his income, though L.10,000 less than is now proposed, exceeded by L.20,000 what was required—but that is not the question we are upon; nor are we asked to consider whether any of these sums, L.395,000 for example, is sufficient to maintain the dignity of the present Sovereign; but the question is this:—The Sovereign is possessed of an income with which this arrangement is not to interfere; by how much is that deficient?—how much must be added to that income, in order to give the Sovereign a revenue such as her station requires? —and of that income we know nothing at all. It never surely can be contended that the revenues of the two Duchies are private property, or any thing like private property. I should like to hear such a proposition advanced in this age and in this House. I should like to

see the man endued with the courage to maintain it.—I should like to see the man among your Lordships, whether on the ministerial or on the opposition benches, gifted with the confidence which must be exhibited by him who would affirm that Cornwall and Lancaster are private and personal property, and not public funds, vested in the Sovereign only as such, enjoyed as Sovereign, and in right of the Crown alone, held as public property, for the benefit of the State, and as a parcel of the national possessions. These revenues are just as much public property, bestowed by former laws upon the Monarch for public purposes, as the sum we are now adding to them, wholly in the dark as to their amount, is public property bestowed by this law. Now respecting the amount of these revenues we are utterly ignorant, as indeed we are of every one particular relating to them. The debate upon my motion to produce a return of the sums really received by the Crown from these sources, comes on to-morrow, and to-night we are to fix what addition it is necessary to make, in order that the Crown may yearly have enough to defray its necessary expenses. To the production of this information now, can there possibly be any objection? You ask for money to make up a deficiency, and you wont tell us what you have got already, by which, of course, the deficiency is to be ascertained. I heard, indeed, the other night, some difficulty raised, certainly not by the Government, as if there were oaths taken by the Duchy officers which bound them to secrecy. My Noble Friend* near me, knows more of the obligations under which they are in the Lancaster department; but as to Cornwall, by far the most important in every respect, I know that there is not the least pretence for such a statement. The officers who take an oath of

* Lord Holland.

secrecy are the members of the Duke's Council and no others; but the officers who alone know any thing about the revenue take no oath of the kind, and from them it is that the Councillors must obtain their information. They, the Councillors, only swear to keep secret the Duke's counsel; but supposing they are bound not to tell what the unsworn officers have told them, all we have to do is to pass by the sworn Councillor, and seek for information from the unsworn officer. Indeed it so happens, that when there is no Duke of Cornwall, and the Duchy is in the Crown, there is no Council, and the affairs of the Duchy are invested in commissioners, my Noble Friend,* the Lord Privy Seal, and others, who none of them take any oath at all, and yet they must be in possession of the information we want; for as their commission is to look after "the better management of the Duchy," they must needs know its revenue before they can see to its improvement. However, there is not a pretence, nor even the shadow of a pretence, for this concealment; information has been communicated in Courts of Justice; bills have been filed to set aside Duchy leases; the Duchy has called upon its own officer, its Surveyor General, at the very head of the revenue department, to answer on his oath touching the affairs of that department; and the legal advisers of that officer have been furnished with information by the other officers, in order that they might use it in the conduct of his cause. The objection from a supposed oath is therefore wholly groundless; and I must add, that even if there were such an oath, unless there also was shewn a clear legal warrant for taking it, no such obligation of secrecy could stand in the way of the high authority of Parliament, any more than it could prove an obstacle to the inquiry of

* Lord Duncannon.

the Courts of the realm upon matters within their jurisdiction. We must, therefore, dismiss all consideration of oaths from our view, and then the question remains, Why are we left without the necessary information, and yet required to decide as if we had it before us?

I will now state a few particulars respecting the Duchy of Cornwall, in order to shew your Lordships how important the subject is, and how entirely we are mistaking our way in legislating hastily and partially on the present important occasion, instead of waiting till the facts are before us, and then making one general arrangement of the whole Crown revenues, for the benefit alike of the Crown and the country. I think you may rely upon the accuracy of my information as far as it goes, for I have taken pains to draw it from authentic sources, without, I do assure you, having asked any one to violate the obligation of his oath.

There are, belonging to the Duchy, between thirty and forty manors in the county of Cornwall, ten having been sold to redeem the land-tax upon the whole estates. There is, beside the manorial rights, a considerable extent of demesne land, and independent of all surface property, there are very extensive and valuable mineral rights all over the county. This is exclusive of the possessions of the Duchy, which are most valuable, in many of the other counties—Devon, Dorset, Somerset, Surry, Norfolk, Herts, and as far as Lincolnshire. There may be, in all, upwards of a hundred parcels of property of various kinds, manorial, and demesne, beside the mineral rights. I mention this to meet the doubt expressed by the noble Baron opposite,* whether a return of the fines received for the last seven years would be any test of their amount in future. It is clear that in so many estates the fines will be renew-

* Lord Ellenborough.

able at various times, and thus that an average may easily be obtained.

Now, the property to which I have adverted is let upon lease, for lives and for terms of years, and in either case upon a moderate rent, sometimes raised indeed, but with large fines upon renewal. For the twenty-five years between 1783, the late Duke's majority, and 1808, the average rents were from L.3000 to L.4000, the average fines from L.5000 to L.6000 a-year; but these were years of comparatively small receipt. During the minority there had been received considerably more than L.10,000 a-year, for about L.225,000 was paid out of the net revenues for the Prince of Wales' expenses; and it was never pretended that this was any thing like the net profit upon the whole estates. Between 1808 and 1813 there were received in fines only, no less than L.129,000, in the space of five years. For a renewal of the lease of that valuable but small piece of ground called Prince's Meadow, which adjoins Waterloo Bridge on the Surry side, no less a sum than L.55,000 was taken; and for a renewed lease to the Corporation, of the ground called Sutton Pool at Plymouth, a sum of L.12,000. The term of years in each case was 99, but there was a rent reserved of L.4000 in the one, and L.1000 in the other, both to commence in 1841; so that whatever may be the unknown amount of the present Duchy income, we know that in three or four years it must on these two parcels of the estates, be increased L.5000 a-year. But let us consider the fines; on these two parcels they amounted to L.67,000, leaving of the whole sum of L.129,000 received, L.62,000, raised by fines upon the other leases renewed during these five years. Now these other leases were not for years, but for lives, all of which will drop in about three years. They are almost all comprised in four leases of valuable mineral

rights, which will enable the Crown to raise almost immediately, a sum at least equal to what was paid at the last renewal, namely, L.62,000. But the Crown will inevitably be enabled to gain a very great deal more; for since 1810, the value of mining property has greatly increased from the improvements in machinery, in the scientific knowledge and mechanical skill brought to bear upon the management of all underground property, and also from the general accumulation of capital. It would, therefore, by no means be too sanguine, or too bold a calculation to estimate the sum of money which the Crown, that is the reigning Sovereign, may immediately after this Civil List is settled, obtain upon these four leases, at L.80,000, L.90,000, or even L.100,000. I have conferred with persons to whom the subject is familiar, persons themselves largely engaged in mining pursuits, and I will venture to affirm that I speak within the mark very considerably, when I put the least sum which can be expected to accrue from this source, at L.80,000. It is said, indeed, that the Sovereign may, instead of taking fines, raise the rents, which would only effect an increase of the Royal income we now are settling blindfold. But what security have we that any such thing will be done? How can we know that the improvident mode of fines will not be again resorted to? All we know is, that every thing is left unprovided for by this Bill; that it depends upon the will of the Monarch, whether large sums of money shall be taken at once and the Duchy revenue impoverished for years, or whether the just and prudent course shall be adopted of permanently raising the rents of the estates; and we also know that this Bill, so far from affording the least security against the bad, or for the good plan of management, does not in any manner of way touch the subject, or so much as mention the Duchy from beginning to end. How,

indeed, could the Bill make any provision respecting these things, when we see in what manner it has been, I will not say hurried, but carried through Parliament, in all its stages and in both Houses? Not only has it been absolutely impossible that it should contain any settlement of this important affair satisfactory to the people, and becoming the station of the Prince, but any settlement at all—nay, any reference to those ample revenues; nay, time has not been allowed in the extremity of our despatch, for making a mere statement of their net amount. That was to have come to-morrow, and we are assembled on this unwonted day* to pass it, in order that no time may be lost, or rather given to put us in possession of the necessary information. The income of L.395,000 a-year is to be given to the Sovereign, who may on any day raise a vast additional sum by anticipating the rich revenues of the Duchy, that is of the future provision of the Duke of Cornwall, for whose support, as Heir Apparent, the Constitution has provided them. And here, my Lords, when I speak of the Sovereign, I must be understood only to adopt that expression for shortness sake, meaning always the responsible Ministers of the Crown. Nothing can be more reprehensible than the constant introduction of the Sovereign's name, and the constant allusion to the Sovereign as an individual, of late so much in vogue amongst us. My Noble Whig Friends have carried this Tory practice to the utmost extent; the Ministers are hardly any more alluded to than if there existed no such persons; and yet the old doctrine of the Constitution,—the Whig doctrine of which we have got so wide under Whig auspices,—used in my younger days to be, that of Kings and Queens we

* Wednesday.

knew nothing in Parliament, but only of their servants and advisers. I therefore, if I might be permitted such an old-fashioned liberty, would venture to name the Minister of the time being, and remind your Lordships that there is nothing whatever to prevent him, whoever he may be, my Noble Friend, or the Noble Duke, or some one as yet not known amongst us, from taking fines to the amount I have mentioned, and advising the Sovereign to spend the whole in any way he chooses, and for any purposes, however extravagant, or however unconstitutional. None of these parties are bound by any thing in this Bill, for adding near L.400,000 to the fixed Royal income,—or by any pledge given upon passing it,—or by any promise made here or elsewhere,—or by any statement, or intimation, or by any hint or understanding; none of them are in any way bound to have the Duchy revenues providently and honestly managed without anticipation; the Minister of the day may help the Sovereign of the day to such fines as will impoverish the Duchy for half a century to come, and no one will have a right to say, it is against the faith of any treaty, in breach of any contract, in contravention of any understanding whatever. The four mineral leases, to which I have alluded as worth L.80,000 or L.100,000, for converting future revenue into ready money, are not by any means all; there are other sources of as abundant supply to the Royal purse. For instance, there is the Kennington Estate in the near neighbourhood of this House; it is Duchy property, and the lease has actually expired. The fine for renewal was, I know, some years ago, assessed at L.100,000, but the lessee declined to renew;—that he would have given L.80, or L.90,000, there cannot be the least question; —but I make no kind of doubt that the Duchy officers were well advised respecting the value, and that the

full L.100,000 will, if wished for, be obtained. Upon these five parcels of property, then, now and during the next two or three years, a sum of near L.200,000 may be obtained for the Sovereign, if the course hitherto pursued shall be persisted in, and the reigning Prince be advised to enrich himself at the expense of the Duchy. No provision upon this branch of the revenue is made by the Bill; nor any information at all given to us upon the subject. Nothing, however, can be more clear, than that the present arrangement should not only be made with a full knowledge of that subject, but that the arrangement should comprehend the settlement of the Duchies on a right footing, by the transfer of Cornwall as well as Lancaster to the public, and the placing their administration under the ordinary departments of the public service, making fair compensation to the Crown or the Duke for the surrender. What do your Lordships think is the charge of managing these Duchies as their affairs are now administered? Of Lancaster I am not able to form so accurate an estimate; but I know that the gross revenues of Cornwall for the years from 1810 to 1819 inclusive, amounted to L.333,000; and what think you was the net revenue, for the proportion of the net to the gross is the test of good management? Why, only L.228,000, —so that one pound in every three was taken, absorbed, for the cost of collecting and managing the whole. Match me that, if you can, in the worst managed estate in any part of the United Kingdom! Shew me the man who submits to one pound being retained in the country or lost by the way, for every two that are paid into his account at the Banker's! Another striking instance of mismanagement is afforded by the encroachments which are made every where upon the Duchy domains. What think you of an estate of five and forty acres, having, within the period of

two or three generations, extended to 200 of good arable land, without any miracle, or any fresh grant, without any gain from the sea by embankment, or the deposit of any alluvial soil? The extension was effected by the address and industry of one party, the proprietor, and the carelessness of the other party, the Duchy authorities. When asked by one who recollected the old bounds of the farm, how all this increase had been affected, the party now in quiet possession of the extended domain, answered innocently enough in his Cornish dialect, that it was all owing to his grandfather being a careful man and good at hedging by candle light. Such care and such skill never could have succeeded in adding one acre to the possession, had the neighbouring property belonged to a private individual, or been under the management of my Noble Friend* at the head of the woods and forests. A course of encroachment which increases men's estates ten-fold within living memory, at the expense of the public, never could last six months after the affairs of the Duchy were brought under the superintendence of that vigilant department.

But the other encroachments of which I have been speaking are still more deserving of reprehension—I mean those of the reigning Sovereign upon the Duchy revenues, by fines and other means of anticipation. Your Lordships are aware that the eldest son of the Sovereign, who is always created Prince of Wales and Earl of Chester, is born Duke of Cornwall. For his support, and the maintenance of his state and dignity, as heir-apparent to the Crown, the revenues of the Duchy are provided. While there is no Duke, and during his minority, those revenues are vested in the Crown; and although it is very possible that, if well

* Lord Duncannon.

managed during the abeyance of the title, they might suffice for the purpose when a Duke came into existence, this is altogether hopeless if the Sovereign be suffered to exhaust the sources of regular income by anticipation. What is the consequence? The nation settles what is supposed an adequate income on the reigning Sovereign; the Duchy estates are appropriated to the support of the heir-apparent; and the reigning Sovereign being allowed also to exhaust and pervert all the revenue of the Duchy, the nation has afterwards to support the heir-apparent also. I have indeed heard of a very different account of the matter being given in another place. It has come to my ears, irregularly enough I admit, that a Right Honourable Friend of mine* has there painted things in far other colours. If I could at this moment, without greater irregularity still, address myself to him, aware that what I speak he is now hearing,† I should add that he confounded some present on the occasion I allude to, almost to suffocation, by affirming that the Duchy revenues were for the Prince of Wales' support, and that therefore he never came to Parliament for any grant of money. Was ever yet witnessed such profound ignorance of financial history? Was ever yet displayed such astonishing unacquaintance with princely natures? The heir-apparent live upon the reduced Cornish revenue! The Prince of Wales never come to Parliament for money? Why, within seven years of his birth, the expenses of the King's family were given as a reason for debts of half a million having been incurred, which the country immediately paid; and in nine years more, the same plea obtained a still larger sum, with an addition of L.100,000 a-year, to the final settlement of 1760! But grant, that on the Prince of Wales's

* The Right Hon. T. S. Rice, Chancellor of the Exchequer.

† The Chancellor of the Exchequer was sitting near the Throne.

coming *in esse*, and during his minority, there was no specific application made to Parliament on his behalf, the instant he came of age a message was sent down, and a sum of L.50,000 a year granted, over and above the revenues of the Duchy,—those revenues which we are told preclude all occasion for an application to Parliament. From the hour that he became of an age to be capable of spending money, the public treasure was lavished in providing for his support, and in enormous sums from time to time to pay his debts. What, then, can be more wild than the pretence that the Duchy revenues should be withheld from the public, because they are a provision for the heir-apparent, unless it be the yet more extravagant inconsistency of pretending that you are keeping them for this purpose, and all the while suffering the reigning Sovereign to use them at pleasure, anticipating the income as often as money is wanted for any purpose, and reducing the amount to be afterwards enjoyed by the Prince?

I think, my Lords, that I have said enough to demonstrate the absurdity of proceeding in the present arrangement without having before us all those heads of information; the great impolicy of making a partial and perpetual settlement of the Royal revenue; and the improvident, unstatesmanlike precipitancy with which we are hurrying through this measure, instead of laying, on the present occasion, the foundation of a general and systematic plan which may comprehend all the branches of the Sovereign's income, and secure to all of them an efficient and beneficial administration for the future. But there is another part of the Bill upon which I feel it necessary to make one or two observations: I mean the project for new-modelling the Pension List, and enabling the Crown to grant so many pensions yearly as amount to L.1200 in the whole. This is a matter of great moment, and it is beset by no

ordinary difficulties. That the power of rewarding merit, whether displayed in the immediate service of the state, or towards mankind at large, should exist somewhere, cannot be questioned. If that high and peculiarly delicate discretion is vested in the Sovereign, perhaps upon the whole the most unexceptionable arrangement, I yet am well aware of the abuse to which its exercise is liable. I have no fear of corruption, or of any gross abuse, so long as Parliament shall be informed of the grants made from time to time. It is rather the careless use of this patronage that I am apt to dread, arising from ignorance of the subject, and from indolently yielding to importunity. There must also be admitted to exist some risk of giving men of letters that habit of looking for court favour, so fatal to independence, and so often turned to a bad account in the Monarchies of the Continent. Yet all this may be practised without any Pension List, practised in corners where the eye of scrutiny cannot pierce, or the finger of reprobation point, by the abuse of other ample funds vested in the Crown, should the disposition to corrupt learned men exist, and be met by a willingness on their part to stoop from their proud eminence, and degrade themselves into the servile creatures of a court. Then I must look at the other side of the picture, and that leaves me no room to doubt that the evils which beset the steps of genius, demand relief; nay, that there must be the means provided of removing the actual obstruction to its career. I know so much of the struggles which are so often made by those great men—the lights of the world, born to exalt human nature, to stretch the views and the power of man by the conquests of science, and whose lowest title to our gratitude is, that their immortal labours polish, and multiply, and enrich all the arts of life. Following at an immeasurable distance, and, as it were, only with the

eye, their bright path—slaking my thirst at the sources which they have opened,—or humbly bearing into darker regions the sacred light which their genius has kindled, I know how often it has happened that their course has been impeded by craving wants; that they have been fain to quell within them the desire of original investigation, to tame down their lofty spirit, and quit the congenial pursuits that were leading them on to extend the empire of science, or giving them to enchant countless ages with the inspirations of their fancy —for the humbler occupations that minister to the wants of frail humanity. Aware of this—having present to my mind such necessities as these, and the inevitable consequences of their not being relieved—can I hesitate in agreeing to some provision being made for removing such obstructions, and enabling the greatest benefactors of mankind to prosecute their highest vocation?

But even this part of the arrangement is liable to the objection I have urged against all the rest. We are legislating precipitately, and without the requisite information. In what position is the question at this hour? A Committee has been appointed by the other House to investigate the whole subject. Has its Report been approved? It has not even been considered. Has it been made? It is not yet drawn up. Has the Committee agreed upon any Report? It has not examined a person, a paper, or a record. Has it proceeded to business at all? It has not yet met. It is barely appointed; it is only called into existence, after a stormy birth, and many a struggle for life; it is just alive, and no more. No man can divine what it may do when it comes to mature strength, and can act. No conjecture is offered of what may be the result of its labours, or so much as what course they shall take. And yet we are called upon to settle the Pension List

upon a very hasty and crude suggestion thrown out in quite another Committee. The Committee appointed expressly to consider pensions, has done nothing; all men are anxiously awaiting its proceedings. The Committee on the Civil List having no particular commission to consider Pensions, makes a report as meagre and scanty as possible on the Civil List, and throws in a hurried and ill considered remark upon a subject not belonging to its inquiry. We are desired to legislate irrevocably touching pensions upon this remark of the Civil List Committee, and not to wait for the Report of the Pension Committee? If we had been about making provision for the pensions during a life of sixty, as in George IV.'s case, or of sixty-eight as in William IV.'s—even then such thoughtless haste would have been indecent. But we are providing for a life of eighteen; and such is the impatience, not only of a day's delay, but of all inquiry and all discussion, that in the absence of the information which a Committee has been appointed expressly to obtain, we are to catch at and grasp a chance expression in another Committee's report, and sitting on unwonted days, and assembling at unaccustomed hours, we hurry through the Bill which is to make law for half a century, in breathless impatience, for fear that by the least delay we should postpone our decision until the materials for making it are before us! But if all this haste was necessary, and not an instant of time was to be lost, why, let me ask, were we not called together earlier in the season? In 1830, we met at the beginning of November instead of the end. In former years, when the war raged, we were assembled in September. I ask my Noble Friend at the head of the Colonies,* why did we not meet as early now? Would it not have been expedient to profit by

* Lord Glenelg.

the wisdom of Parliament, for adopting some definite course upon the great question that now agitates our principal settlement in America? Ought we not betimes to have resolved at least upon some principles of conduct, and steadily pursued them, instead of letting our precipitancy in one thing rival our slowness in another, and our vacillation of purpose where decision was required, maintain the strife with our pertinacity when the truest wisdom was to retrace our steps? Ought we not to have so early met the great Council of the nation, as to give time for correcting, by the help of experience, the fatal errors of last May? If those who preceded us could aforetime meet in the autumn, that the work of slaughter might be done, ought not we to have been early convoked, for the more blessed labours of conciliation and peace? Then there had been no occasion for that hurry which has marked every step in this measure, and must for ever sink its value to nothing in the eyes of all reflecting men. As many months and weeks would have been given as we have now had days and hours for considering all its provisions; and the same wise foresight and deliberate prudence which presided over the whole settlement for supporting the Crown, would have preserved the brightest of the jewels that it still retains.

But I have done my duty—I have unburthened my conscience—I have relieved my own mind. It remains that I render my thanks to your Lordships, which I sincerely and respectfully do, for the patience with which you have had the kindness to hear so many things in which you disagree with me, and which are not listened to without uneasiness, any more than they can be delivered without pain. It has indeed been my irksome task to obstruct you in the course all seemed most anxious to pursue with little reflection and no delay, and to obstruct you by a recourse to principles

now, I fear, out of date—the principles of legislation, sanctioned by the spirit of former precedent, and the analogy of constitutional law. This unwelcome office you have suffered me to perform, and my humble thanks are your due. Will you indulge me with your attention yet a moment while I advert to the singular predicament in which the Sovereign is placed for whose high estate the provision that we are making is destined? It is wholly unnecessary that I should profess those sentiments of dutiful attachment which bind all of us to the Illustrious House, called by the choice of the People to preside over the destinies of these realms. Nor does any one among you all rejoice more sincerely than I have done in the enthusiasm of affection which has burst from all her subjects, to greet the accession of the reigning Monarch. They have generously let expectation usurp the place of gratitude. They have taken counsel with hope, rather than experience. For as memory scatters her sweets with a cold and churlish hand, it has been found more pleasing to array the object of the general love in the attire of fancy; and as fervent a devotion has been kindled towards the yet untried ruler, as could have glowed in her people's bosom after the longest and most glorious reign, in which she should have only lived and only governed for the country's good; by some chronic miracle, escaping all error and all failure, and only showering down blessings upon mankind. I heartily rejoice in this enthusiasm, and I do not complain of it as premature. I rejoice in it because it must prove delightful to the Royal object of it. I rejoice still more because I know that it will stimulate the Queen to live for her country, in order to earn the affections which have already been bestowed, and justify the opinion which has been formed and is so fondly cherished upon trust. But most chiefly do I rejoice, because it extinguishes for ever all apprehensions

of the English people's loyalty and trustworthiness; puts to shame all who would represent them as disaffected towards Monarchical institutions; demonstrates the safety of entrusting them with an ample measure of political rights; and teaches to statesmen this great practical lesson, that the more we extirpate abuse from our system, the more searching we make our reforms, the more we endear the Constitution to the people by making them feel its benefits—the safer will be the just rights of the Monarch who is its head, and the stronger will be the allegiance of the subject who cheerfully obeys. So that, far from dreading the policy which would strengthen the people's hands by confirming their liberties and extending their rights, we ought to pursue this course for the sake of the Monarchy itself, which we shall thus better entitle to the people's affections, and render, because more beloved, more secure.

PRIVILEGE OF PARLIAMENT.

INTRODUCTION.

PRIVILEGE OF PARLIAMENT.

THE pretensions at different times set up by the Houses of Parliament to certain Privileges placing them above the law of the land, are the more familiarly known in consequence of their having of late been brought into discussion by a new and extravagant claim, asserted on behalf of the House of Commons, to publish libels through irresponsible agents. The natural course of irregular and anomalous power is, that it should increase gradually until it becomes intolerable, and create resistance which finally prevails. The tendency of Parliamentary Privilege to overthrow all law, and erect an unbearable tyranny on its ruins, seems early in our history to have become so apparent, that a check was soon provided to impede its farther progress; and we accordingly find, that in former times pretences were advanced, and generally allowed, on the part of the two Houses, which they were afterwards obliged to abandon. Not content with the power of issuing what

orders they pleased, and taking whatever steps they chose in their collective capacity, the Commons at one period held, and were suffered by the Judges to hold, that their members were clothed with extraordinary immunities as private individuals. They were not only free from all arrest for debts, but their servants were set equally above the law; and every member's house enjoyed the privilege of sanctuary, which is now confined to the Royal Palaces. So there are repeated instances of the Commons deciding questions of property between their members and strangers, and punishing the latter, without any hearing, for disputing the title of members,—a proceeding so despotic, absurd, and barbarous, as cannot probably be matched in the history of any other Assembly in the civilized world. But these, and other extravagant claims, although acted upon within the last seventy or eighty years, have since been silently abandoned, and, excepting the freedom from arrest for debt enjoyed by individual members, no privilege is claimed beyond the walls of Parliament, except for the acts of the two Houses themselves in their collective capacity.

Even the extravagant claims of the Houses have begun to be restrained within narrower bounds than they acknowledged in more ancient times. But of late years, especially since the controversy arising out of Sir Francis Burdett's publication in 1810, a disposition has seemed to be once more spreading in favour of high privilege doctrines; and some men have professed themselves their champions, as if they thus furthered the cause of popular rights. The accession of power gained by the democratic part of the Constitution by

the late Reform has increased this inclination to stickle for extreme rights; and in 1831, a new and unheard of claim was asserted by some members of the Lower House, to be free from the jurisdiction of Courts of Justice in offences of a very grave nature,—namely, those contempts which obstruct the whole course of justice.

Mr. Long Wellesley in 1831 raised a Privilege question with the Court of Chancery. He had been ordered, by a decree of that Court, affirmed afterwards on appeal in the House of Lords, to give up the custody of his infant children, wards of the Court. He violated the order, took away the infants from those appointed to take charge of them, and removed them beyond the jurisdiction, to France. He came into Court when asked to attend, and declared that he refused to bring them back, or give them up. The Lord Chancellor immediately committed him for this contempt to the custody of the Sergeant-at-Arms. Mr. Long Wellesley moved for his discharge. The question was rested upon his Privilege as a member of Parliament. Some members of the House took it up—a committee was appointed—precedents were searched for,—and a Report was made that there was no such privilege.

This attempt of Mr. Wellesley, and of those who supported him in the House of Commons, thus signally failed. But the circumstance of its meeting with any support was sufficiently striking, and seemed to shew that there existed a disposition to revive antiquated claims of Privilege, and even to carry the pretensions of immunity from the laws of the country, on the part of members of Parliament, farther than they had ever in

the worst times been pushed. Accordingly, the defeat of 1831 did not prevent a renewal of the conflict; for in 1836, Mr. Lechmere Charlton, being a suitor in the Court of Chancery, as well as a member of the House of Commons, grossly insulted first a Master in Chancery, and then the Lord Chancellor, both acting in their judicial capacity; and when committed to the Fleet for his offence, as a matter of course, threw himself upon the protection of the House, whose Privileges he counted to be violated in his person. The usual notification of his imprisonment had been made to the Speaker,—a form always observed, by way of testifying respect for the House, and accounting for the imprisoned member's absence. It is, indeed, a form which would be observed were a member committed by a magistrate for robbery. Nor, it may be observed, is there a single argument ever urged in favour of Privilege which would not serve as a pretence for allowing all the members of both Houses to rob and murder with impunity on the highway.

It might have been supposed that the question of Privilege had been sufficiently settled six years before, and that no farther struggle would have been attempted on so desperate a ground. If each time that a member is arrested for a crime, the House of Commons is to inquire into the state of the law and the extent of its Privileges, a serious obstruction is given to the execution of that law; its provisions never can be regarded as settled; encouragement is held out to violate it; the House exhibits itself as yielding a very unwilling obedience to the enactments to which itself was a party; and beside encountering the odium prover-

bially attached to those law-makers who are also law-breakers; it lowers its dignity materially by undergoing multiplied discomfitures in a needless conflict. For what can possibly be more needless than that, the question of right having been once settled, both by decisions of the Courts and Resolutions, the result of full inquiry in the House itself, each time that a new case of the same kind occurs for the application of the same rule, a new inquiry should take place to ascertain what the rule is which had long before been solemnly fixed? Yet such is the course pursued in Parliament; and accordingly, a Committee was appointed to examine Mr. L. Charlton's case, and to report upon the grave and decorous question—whether or not a person who happens to be a member of Parliament, has a right to commit such outrage as he may think fit upon any of the Judges or any of the Courts where he may chance to be a suitor? Indeed it was farther alleged, that Mr. L. Charlton, being a barrister, had some further right appertaining to him in that capacity. But the House of Commons did not perhaps deem the circumstance of the offender being a member of the Court against which he had committed a contempt, any mitigation of his offence. At all events they left the Bar to protect its own privileges; and indeed there seems no conceivable reason why that body should not also have made common cause with the guilty party, so far at least as to inquire whether or not one of their members was rightfully imprisoned, and thus suspended from the exercise of his functions. It is highly probable that such an investigation would have ended in a Report against the Privilege; but this, according to the

practice of the Commons, would have been no kind of reason for the Bar not instituting another similar inquiry, the next time that a barrister might be committed for a like offence.

However, a Committee was appointed to inquire; and after a considerable time spent in the investigation of the question, it reported that the imprisonment of the member for his offence was no breach of the Privileges of Parliament. Consequently the House refused to interfere with the Court of Chancery, exactly as it had refused in the case of Mr. Long Wellesley, six years before. What the consequences of its interference would have been, had the propensities of the advocates of Privilege been gratified, is another question. Lord Brougham, when Chancellor, avowed (in the following judgment) that he should have pronounced the same sentence precisely, had the Commons arrived at an opposite conclusion and maintained the title of its members to insult the Court with impunity. It is probable too that the same course would have been taken in 1836. In either case, the country would have witnessed the spectacle of a conflict at the prison doors between the macers of the Commons and the Chancery, each claiming possession of the offender's body. But the contest could not have ended there. If the Commons were in the right, the Court was in the wrong, and was guilty of a high contempt in detaining the member of Parliament. Consequently the Lord Chancellor must be taken into custody, brought to the Bar of the House, compelled to make submission, reprimanded, and discharged on payment of the fees; or kept in confinement until the end of the session, if he

refused to submit. Does any mortal believe that the country would have endured the sight of this outrage upon a Judge for administering justice according to his oath? But does any mortal believe that Lord Brougham would have submitted to be arrested by the Sergeant-at-Arms? If he had, he was unworthy of his place; for he was submitting without resistance to lawless violence. Yet such are the extremities to which all the doctrines of the Privilege champions necessarily lead. In order to be consistent, they must maintain that the Houses of Parliament alone are the judges of their Privileges. This right is worth nothing if it is confined to judging of the general and abstract question. They accordingly also maintain that they alone are the judges to decide whether, in any particular instance, those Privileges have been broken. Hence there is but one issue to which their conflict with the Courts of Law can ever come. If the Judges persist in affirming their own jurisdiction, the Commons must proceed by main force to prevent the jurisdiction from being exercised against their members or their agents. They did so in Queen Anne's time. Perfectly wrong in their claims, they were perfectly consistent in their enforcement of those groundless pretensions. They ordered all the sergeants, barristers, attorneys, and parties, to be committed; and they must have committed the Judges also had they proceeded. There is manifestly no alternative between this course and abandoning the claim altogether; for submitting it to the decision of the adverse party, is the most absolute of all surrenders. Thus the doctrine of Privilege has this recommendation, among so many others, that it necessarily

begets a conflict in the outset between the supreme Parliamentary and supreme Judicial powers; and begins with that outrage and that violence where all other controversies end.

These remarks have received important illustration since Mr. L. Charlton's case. It appears that the indifferent success which had attended their efforts in 1831 and 1836, did not dishearten the men of high privilege. In 1837 they were fated to exhibit new prowess, and to sustain renewed discomfiture, and even humiliation, upon advancing a novel pretension. A resolution having been taken in 1836, to publish for sale the papers of the Commons, and in the genuine spirit of retail dealing, to give "*the trade*," as it was, with technical felicity of phrase, termed, the benefit of a discount, the Parliamentary shopkeeper was found selling libels against the character of individuals. An action was brought for the published slander; and the defendant set up the authority of the House as his protection against answering for the wrong committed. The eminent Judge before whom this question was raised, performed his duty as faithfully and as firmly as might have been expected from him who had, at the Bar and in the Senate, made the name of Denman illustrious for uncompromising integrity, and unflinching defiance to the favours of power. He who had so often scorned the assaults of authority which was lawful in its constitution, although perverted to purposes of oppression, might well be supposed incapable of abating one jot of his resistance, when the threats proceeded from the perpetrators of a lawless usurpation. He bravely told

the Commons that the Law which he was sworn to administer knew of no privilege to commit crimes, and he drove the party to another defence. On that defence he prevailed; but new actions being brought, the House of Commons again appointed a Committee to inquire, and an elaborate Report was produced, and adopted by the House,—a Report which has ever since been the laughing-stock of all rational men, for the absurdity of its conclusions, the illogical texture of its reasonings, the self-destructive inconsistency of its successive positions, and even the gross inconsistencies of its singularly unhappy and scarcely grammatical diction. It however asserted plainly enough one pretension, and that was, the right of the House to make whatever law it chose for itself upon all subjects, and to assume, by a simple vote of its own, any right whatever. It farther declared all who disputed its resolutions, or acted, judicially or otherwise, in opposition* to its claims, to be guilty of breach of Privilege.†

Nothing certainly could be more high, or more mighty, or more uncompromising, than the tone of these Resolutions. But it was soon found to be a tone of so loud a pitch that it could not be sustained above eight and forty hours. For after that short interval of triumph, of bluster, and of brag, had elapsed, the gentle and more easily maintained note

* This was the plain meaning of the Resolutions moved by Lord Howick, Chairman of the Committee; but the words used were, "acted inconsistently with the said privileges,"—which is manifestly mere nonsense.

† Here again the meaning is given, and not the language of the Resolutions. That language was as much nonsense as in the former instance.

of submission was sounded. The Lord Chief Justice had, in the meanwhile, declared in the House of Lords, that he should utterly disregard the monstrous pretensions set forth in the Resolutions; and when the question arose in the Commons next day, what course should be taken with the actions brought against their libel-seller, it was deemed expedient to forget, suddenly and entirely, the famous Resolutions of the day before yesterday, and to direct that the Attorney-general should appear and defend the actions in the Court of King's Bench,—thus submitting the question of their Privileges to the decision of that Court with which they were in open conflict, and which but two days before they had pronounced guilty of a contempt, if it dared to entertain the question!

It may well be thought that this melancholy plight into which the doctrine of Privilege was brought, would sicken even the stiffest appetite for that rare dainty. However, the parties have, on behalf of the Commons, pleaded the Privilege, and a demur of the plaintiff leaves the question to be decided, first by the Court of King's Bench, afterwards, in the last resort, by the House of Lords—another strange anomaly, and a complete departure from the principle—for nothing assuredly can be more repugnant to the whole doctrine than that one House should judge of the other's Privileges.

It may be observed, in conclusion, that the pretensions set up by individual members, and somewhat countenanced by the House successively examining the merits of each case, how outrageous soever, hardly exceed in violence the claims now advanced for the

House in its collective capacity. If the contentions of the Long Wellesleys, and the Lechmere Charltons had prevailed, we should have been living in a country where above eleven hundred persons had a right, with absolute impunity, to set at defiance every Court in the kingdom, to refuse obeying their orders, and to rush into their presence at all hours and insult their Judges with the grossest language, nay, with personal violence—a state of society to which there is nothing parallel among the most barbarous tribes of Africa or America. Whether or not such was the Law of England,—of England, so proud, and heretofore so justly proud, of her judicial system,—appeared so doubtful a matter to the Commons, that they held a solemn inquiry touching it, in one year, and having determined in the negative, so great was their hankering after that condition of the law, as to render necessary a second investigation of the same perplexing, and difficult, and doubtful question, a few years after; and all this not in the Druidical times, but towards the middle of the nineteenth century. But there may be a doubt if the pretension now *sub judice*, is not nearly as violent in its nature, and pregnant with consequences if possible more alarming, because, more widely extensive. Not only is it asserted as right, that the Commons may authorise, without the concurrence of the other branches of parliament, any person to slander any others, and to sell their slanders with absolute impunity for the profit of the Commons, but it is maintained, that whatever any vote of either House of Parliament shall declare to be the Right and the Privilege of that House, must be taken to be its right and its

privilege, and submitted to as such by all mankind, without any consent from those co-ordinate branches of the Legislature, without whose joint concurrence not the most trifling encroachments can be made upon the rights of any one individual, although every one other member of the community should declare for the act. If such be the law of Parliament, we may well feel anxious about the law of the land; for assuredly the two cannot continue to exist together.

It is singular how little the advocates of the extreme doctrine of Privilege have of late years been guided by the same sound and temperate views which breathed through the language of their predecessors, and regulated their conduct in former times. Mr. Burke belonged to the same school; as his sincere friends, Mr. Wyndham and Mr. Elliott, reminded Parliament by their zeal on the great question of 1810. Mr. Dowdeswell, Chancellor of the Exchequer, and a distinguished member of the Rockingham party when Mr. Burke entered into public life, held the same high opinions upon the same controversy. Yet mark the sobriety of the language in which one of those eminent men expresses himself upon the other's tomb, when recording his friend's principles for the veneration of after ages: "He understood, beyond any man of his time, the Revenues of his country, which he preferred to every thing except its Liberties; he was a perfect master of the law of Parliament, and attached to its Privileges until they were set up against the rights of the people."* All

* Epitaph on the Monument in Bushley Church, Worcestershire, erected in 1778.

rights are now utterly disregarded by the advocates of Privilege, excepting that of exposing their own short-sighted impolicy and thoughtless inconsistency. Nor would there be any safety for the people under their guidance, if unhappily their powers of doing mischief bore any proportion to their disregard of what is politic and just.

JUDGMENT

PRONOUNCED BY THE LORD CHANCELLOR,

IN THE CASE OF

WELLESLEY *v.* THE DUKE OF BEAUFORT,

JULY 28, 1831.

JUDGMENT.

I AM exceedingly well pleased that I took the course which I saw fit to take, and which I thought the interests of justice prescribed, without any deviation from the strictest rules in force here, as well as in all other Courts, with respect to the hearing of Counsel. In conformity with those rules, I suffered Mr. Beames to address the Court as *amicus curiæ*, upon a question so grave in itself, and so nearly touching the liberty of the subject. This practice has been frequently adopted in matters resembling the subject of the present discussion. It is not unusual in the Court of King's Bench, which, in the exercise of its high criminal jurisdiction, is wont to let in the light to be obtained from such arguments, that a failure of justice may be prevented.

I am the better satisfied with having taken that course in this case, because Mr. Beames has, in an exemplary manner, abstained from abusing the indulgence which I gave him. He has confined himself most rigidly to the question which he endeavoured to illustrate; he has abstained from all that did not come strictly within the scope of that permission; he has stated the argument with his usual distinctness and

acuteness, and with very great succintness indeed, considering the extent of the field over which he had to travel, and the variety of learning, more or less bearing on the subject, which he must have gone through in his own researches. In a word, he has exercised the delicate office of *amicus curiæ* with great correctness and precision.

If, upon hearing Mr. Beames, I had found he threw any new light upon the question, which may now be said to be under consideration, after a fortnight's discussion, elsewhere as well as here; if he had imported into the consideration of it any fresh authorities, or any hitherto uncited cases, I should undoubtedly have paused to give the party on whose behalf substantially he has addressed me, the benefit even of possibilities and doubts. But it is no disparagement of Mr. Beames' learning or industry, to say that he has failed to bring novelty into a discussion of so long standing that it may well be termed *vexata*—that he has failed to add any thing new, only because such an addition would inevitably have been departing from the matter which was appropriate to the discussion; only because it had been exhausted by his predecessors; and because no man could hope to be original in it without also being erroneous. Therefore, although leaning, as I ought to do, towards the gentleman on whose behalf it has been attempted to raise a doubt, I yet feel no obligation on my part to delay the expression of my opinion upon the legal and constitutional point now made.

The old authorities upon the subject of Parliamentary Privilege are to be taken with very ample allowance, for they all refer to times, and exist in circumstances, wherein the claim of Privilege by Members of Parliament was infinitely larger than anything upon which both Houses now are content to rest. One can hardly open a book under the head of Parliamentary

Privilege without being satisfied of the truth of this proposition. In the very volume of *Peere Williams*, from which the *Shaftsbury* case has been quoted, it is laid down in *Lord Clifford's* case,* that the first process against a Peer of the realm, or against a person having Privilege of the Lower House as a Knight of the shire, or as a citizen or burgess, is sequestration. But in another case† in the same book, without a name, and equally without authority in these days, it is stated that the same exemption extends to the menial servants of Peers; and that the first process in their case also for any contempt of Court, (for no exception is made,) is not by arrest of the body, but by sequestration. This, too, was so ruled after the statute of William‡ in restraint of Privilege; and the right must indeed have existed after that Act, if the Privilege ever existed in those menial servants, just as it did before the Act; for the statute saves the rights of all persons then having Privilege, and makes no difference in its enactments between the case of the master and that of the servant.§

To bring authorities either from the records of Parliament, or indeed from the records of Courts, in times when Privilege was so much larger than is now contended or even thought of by the stoutest champion of Parliamentary Rights,—so much more extensive, that it might be said to be a different rather than the same claim,—is manifestly of no use in disposing of the practical question now before us.

But if any one wishes to see how far the pretensions of the Houses of Parliament have formerly been carried, to know how incumbent it is upon the Courts of Law to defend their high and sacred duty of guarding the lives, the liberties, and the properties of the subject,

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* 2 P. Wms. 385.
† Anon. 1 P. Wms. 535.
‡ 12 and 13 W. III. c. 3.
§ See 10 G. 3. c. 50.

and protecting the respectability, and the very existence of the Houses of Parliament themselves; against wild, and extravagant, and groundless, and inconsistent notions of Privilege, it would be sufficient to refer, not to the times of the *Plantagenets*, of the *Tudors*, or of the *Stuarts*, the records of which abound in extravagant dicta of the Courts, and yet more extravagant pretensions of the two Houses,—but to a much later and more rational period of Parliamentary history—to the days of the family under whom happily all classes in these realms have so long enjoyed, each in its sphere, the rights of freemen.

In the year 1759, an action of trespass for breaking and entering a fishery was tried in the House of Commons, to the lasting opprobrium of Parliamentary Privilege, to the scandal and disgrace of the House of Parliament that tried it, and to the astonishment and alarm of all good men, whether lawyers or laymen. *Admiral Griffin* made complaint to the House, whereof he was a member, that three men, whose names were stated, had broken into and entered his fishery near Plymouth, had taken the fish therefrom, and destroyed the nets therein; and the House forthwith, instead of indignantly and in mockery of such a pretension dismissing the charge, and censuring him who made it, ordered the defendants in the trespass, for so they must be called, to be committed into the custody of the Sergeant-at-arms. They were committed into that custody accordingly; they were brought to the bar of the House of Commons, and there, on their knees, they confessed their fault; they promised never again to offend the Admiral by interfering with his alleged right of fishery; and upon this confession and promise they were discharged on paying their fees. So that, by way of Privilege, a trespass was actually tried by the plaintiff himself sitting in judgment against his adversary the de-

fendant, and the Judge (for in this case the House and the complaining party must be considered as identical) was pleased to decide in his own favour.*

This is enough to warn Courts of Justice how they accede to claims of Privilege, the instant they hear that once magical word pronounced. Even in the event of the House of Parliament, by their Committee's report and by their votes, having decided in favour of so monstrous a pretension, I should still have deemed it my duty, if the facts of the case authorized me, to act as I am now prepared to act, or rather to continue acting. If, instead of justly, temperately, and wisely abandoning this monstrous claim, I had found an unanimous resolution of the House in its favour, I should still—(and it was this which made me interpose to assure the counsel that I needed not the resolution of the House of Commons in favour of the Court of Chancery)—I should still have steadily pursued my own course, and persisted in acting according to what I knew to be the law.

Having disposed, generally speaking, of the authorities of those early days by these observations, I must, however, remark farther, that I can find no cases in the books to justify the assertion of Privilege now made. I speak not of the records of Parliament, but confine my proposition to judicial authority. This distinction I feel myself, after mature deliberation, authorized and bound to take. For let not any one imagine, that when I at once, and without argument, ordered *Mr. Wellesley* to be committed to the Fleet, well knowing at the time that he was a member of the House of Commons, I was taken unprepared, or expressed a rash or unadvised opinion. The case was familiar to my mind. I had seen it in every form; I had heard it discussed in every

* Commons' Journals, vol. xxviii. pp. 489, 550. The Journals of that period abound with cases of a similar kind. See 2 Mylne and Keen, 395.

shape—I had seen it in the Court of Parliament; I had encountered it in the Courts of Law. In all those Courts I had borne a share in the discussion, having myself argued the greatest of all the cases,* when it came by writ of error from the Courts of King's Bench and Exchequer Chamber before the highest judicature of the realm, the House of Lords, sitting as a Court of Law. The result of that deliberation and attention has been confirmed in my mind by more recent inquiry, and by again going over the ground I had so often previously trodden; and the conclusion I have come to is, that there is no ground whatever to maintain the claim of Privilege now set up.

To those who argue on the other side I at once make a present of almost all that Mr. Beames urged this morning, as to commitments for refusing to put in an answer, for refusing to pay money ordered to be paid, for resisting a decree to perform any specific act, for cutting down timber,† or doing any other act in the face of an injunction, and in the face of any other order of this Court. The breach of any order, substantially of a civil description, and in a civil matter, that is, a matter touching the rights of real or personal property, will not entitle this Court, the Court of King's Bench, the Common Bench, the Exchequer of the King, nay, not even the House of Lords itself, judging in the last resort, to attach the person of the party having Privilege of Parliament, and disobeying such an order.

I leave for further observation that ingenious and acute part of Mr. Beames' argument where he takes

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* Burdett *v.* Abbot, Burdett *v.* Colman, 5 Dow. 165.

† In Shirley *v.* Earl Ferrers, Lincoln's Inn Hall, July 15, 1831, the Lord Chancellor affirmed an order, by which it was directed that a sequestration should issue against the defendant, Earl Ferrers, for cutting down timber in breach of an injunction, and that an agent of his Lordship, who had been a party to the same contempt, should be committed to the Fleet.

the ground of denying the distinction between a civil and a criminal contempt, the only part of his argument in which I think he may be said to have thrown any new light upon the subject. I had, however, previously considered the question in this point of view; I had frequently heard it discussed, in the course of the former controversies; and it was not therefore now presented to my mind in this light for the first time.

Accordingly, the ground on which I rest my denial of Parliamentary Privilege in the present case, is not that taken by my Lord Coke, and by the oftentimes repeated resolutions of the House of Commons,—the proposition which makes the exception, but confines it to treason, felony, and surety of the peace, and maintains Privilege in every other case. I have already, in the course of the argument, stated one reason why I cannot so restrict the Privilege,—why I draw my line in another direction, or higher up upon the scale. If the only ground of commitment, by a court of competent jurisdiction to try the case, was that a breach of the peace had been committed, the breach of the peace not being the main offence, but only incidental to it, and accidentally mixed up with it,—if that were the only ground, no court could commit for a contempt unaccompanied by a breach of the peace, however aggravated the criminality of that contempt might have been. And a second consequence would also follow, that this or any other Court which had not jurisdiction of a breach of the peace, could not commit at all. A Justice of the Peace could commit; the Court of King's Bench could commit; but the Court of Chancery, the Common Bench, or the Exchequer, could not commit, because they have no jurisdiction, no cognisance of the peace.

There are, however, many offences,—and this is the other ground of my denying that to be the right dis-

tinction,—offences for which no man can doubt the right of the Courts of Common Pleas, of Exchequer, and of Chancery, to commit; offences for which till now their right to commit has never been disputed; offences involving no breach of the peace, and for which, by every day's practice, parties are committed by those Courts, and by the Court of King's Bench, not sitting as a Criminal Court.

If the line is to be assumed which has been drawn by Lord Coke in the First Institute, and followed by the Houses of Parliament, without, as it appears to me, duly weighing the subject matter, will it be said that a Member of Parliament can commit perjury without punishment? That is no treason, or felony, or breach of the peace; it is not even such an offence as for which you can have "surety of the peace," the expression used in some of the Parliamentary Resolutions. It may be said, indeed, that a Member of Parliament is liable to an indictment for perjury in any Court that has competent jurisdiction, and will, on conviction, be punished in his person by imprisonment. But upon this two material observations arise:—First, if breach of the peace, treason, and felony, alone give to any Court a right to take the body of a person having Privilege of Parliament, where is that qualification of Lord Coke's rule, or of the resolutions of the Commons, to be found, which entitles a Court, after trial and conviction, to touch the person of the privileged man? From the beginning to the end of the Parliamentary discussions on the subject, there is no distinction taken between mesne process, and the execution of a sentence. And yet, if the limit of the Rule of privilege is to be taken from the text of Lord Coke, or from the Resolutions of the Houses of Parliament, no Member of Parliament could be imprisoned even upon a conviction for perjury by virtue of a

judicial sentence legally pronounced. But the second observation renders the accuracy of the first immaterial. What shall be said of a crime nearly equal to perjury as to its effects in defeating the ends of justice, a crime which, though not in a technical sense equal, is yet in all other respects the same with perjury,—I mean prevarication upon oath? If the prevarication amounts to all that moral perjury can reach, either in mischief or in guilt,—if a man has twenty times over in his cross-examination told a falsehood, and his next breath has operated his own conviction of that falsehood, unless it be upon a point material to the issue to be tried, it is not perjury in law. What do the Courts, when that foul crime is committed in their face? They do not order the party to be indicted for perjury, as he would be if he had sworn falsely to a thing material to the issue,—because they know that he must then escape upon a trial; but they order him to stand committed for his prevarication. In what form, and under what name? For a contempt of the Court by prevaricating on his oath. If in the Court of King's Bench, a Member of Parliament should so far forget his honour as a representative, and his duty as a man, as to prevaricate grossly on his oath, was it ever dreamt he would be at liberty to say, "True, I have prevaricated; but I am a knight of the shire, I am a citizen, or I am a burgess in Parliament; true it is, I have done that which degrades and disgraces me, that which is the most flagrant attempt that can be made to defeat the administration of justice; true it is I have done that, for committing which any other man would have been hurried from hence to a dungeon; but I am a Member of the House of Commons; I have Privilege of Parliament, and my person is as sacred as the oath which I have taken and broken." Were any man so ill advised as to offer such an insult

to the Court, far from operating to his protection under this Privilege, it is my firm belief, it is my fervent hope, that it would make him cease to be a Member of Parliament by expulsion. But it is also my belief, that it would, in the first instance, be visited with condign punishment by the Court whose dignity had been outraged; and that, long before the House which he had disgraced had thrust him forth, the Court would vindicate its insulted honour, and reject with scorn the plea of Privilege by which he had aggravated his offence.

The line, then, which I draw is this: that against all civil process Privilege protects; but that against contempt for not obeying civil process, if that contempt is in its nature or by its incidents criminal, Privilege protects not; that he who has Privilege of Parliament, in all civil matters,—matters which, whatever be the form, are in substance of a civil nature, may plead it with success, but that he can in no criminal matter be heard to urge such Privilege; that Members of Parliament are privileged against commitment, *qua* process, to compel them to do an act; against commitment for breach of an order of a personal description, if the breach be not accompanied by criminal incidents, and provided the commitment be not in the nature of punishment, but rather in the nature of process to compel a performance; that in all such matters Members of Parliament are protected; but that they are no more protected than the rest of the King's subjects from commitment in execution of a sentence, where the sentence is that of a court of competent jurisdiction, and has been duly and regularly pronounced. Now convictions, and the sentences that follow upon them, are of two sorts; either formally upon trial by indictment, or information and verdict, with the consequent judgment; or summarily, but as legally, as formally, by a commit-

ment for contempt, where there is no other punishment provided, and no other mode of trying the offence.

In the case of the Earl of *Shaftsbury*,* who, when committed by the Lords' House of Parliament, whereof he was a member, brought his writ of *habeas corpus*, Lord Chief Justice *Rainsford*, in delivering the judgment of the Court, held that the Court had no right to consider the validity or the form of the warrant upon which the Earl had been committed. It was enough for that Court that a contempt was alleged, and an order of commitment made upon which the warrant proceeded; and the Chief Justice observed, that if a party guilty of contempt could not be committed to prison, there was then no punishment at all with which he could be visited for his offence.

So, if the party here guilty of the contempt cannot be committed to prison, he must escape punishment altogether; for a breach of the peace is not necessarily incident to the contempt. And yet I should have committed just as much, had there been no breach of the peace, as if the offence of contemning the Court had been aggravated by the additional offence of an assault committed upon one of his Majesty's subjects.

There are cases indeed which go a good deal further, and which justify me in denying that what, in common parlance, may be called criminal contempt, must have been committed in order to oust the Privilege. If the contempt savours of criminality, and the sentence is penal, that, according to the books, appears to be enough. With respect to the distinction between civil and criminal contempts, denied by Mr. Beames, I agree that there may oftentimes be a difficulty in finding; first, authority for deciding where the line is to be drawn; and, secondly, instances in practice for drawing

* 6 State Trials, p. 1269. *How.* ed.

it. Yet that line has been recognised by the Court of King's Bench, in Catmur *v.* Knatchbull,* and in Walker *v.* Lord Grosvenor.† The former was the case of non-performance of an award, made a rule of Court; for non-performance being a disobedience, was a contempt of the Court, and so might be regarded as technically speaking, and in form, an offence. But the Court held that as it related simply to a civil matter, and was rather in the nature of process to compel the performance of a specific act, the matter was in substance not criminal but civil; and it refused to commit the defendant, a Member of Parliament, for his disobedience. The same doctrine was laid down in the other case, where the non-compliance was by a Peer. But suppose the matter to have been criminal, though without breach of the peace; suppose, for instance, an interruption or obstruction of the Court's business by a man having Privilege of Parliament, getting up, and stopping the Court by a long harangue, by ribaldry, by invective, by slander, or by any other indecency which human wit may fancy, or human folly may practise, is it possible to doubt that the Court would order its officer to seize him forthwith, and remove and commit him to confinement, as a person who, in the face of the Court, had been guilty of a contempt of a criminal, and not of a civil kind?‡ Indeed, if he was merely removed from the Court, that would be enough for the purpose of my argument; because the act of the officer, and, consequently, of the Court itself; the bare act of taking the offender and putting him out of Court, is as much imprisonment, in contemplation of law, as if he

* 7. T. R. 448. † 7. T. R. 171.

‡ A Peer refusing to be sworn is guilty of a contempt for which he may be committed and fined. 2 *Salk.* 278. "No Peer or Lord of Parliament hath Privilege of Peerage or of Parliament against being compelled by process of the Courts in *Westminster Hall* to pay obedience to a writ of *habeas corpus* directed to him." *Lords' Journals*, vol. xxix. p. 37. Rex *v.* Earl Ferrers, 1 *Burr.* 631.

had been thrown into the King's Bench prison. And if the party is privileged from being sent to prison he is equally privileged from being turned out of Court. Yet if the judges had not this power, about 1100 men would have the right to go and interrupt the business of all the courts in the kingdom. The business of Licensing Sessions, and of Quarter Sessions in the country, might be entirely put a stop to by one or two gentlemen in the country who might happen to take an interest in obstructing the proceedings, and to be clothed with Parliamentary Privilege.

But it is not there only that such interruptions may take place. If these privileged individuals choose to carry their political interference so far, the very business of the Court of Hustings, and of the Sheriff at elections, where they are not merely supposed, but are almost assumed to take a deep interest, may be put an end to; so that, until we come to Parliament itself, we should here have upwards of a thousand persons who would have the absolute right, uncontrolled by any power save that of the Houses to which they belong, of entering, individually or in a body, into those courts, and not only obstructing all election, but interrupting the administration of all civil and criminal justice.

Nor is the argument *ab inconvenienti* less applicable to equitable jurisdiction than it is to the other branches of judicature. Who are the persons most likely to be guilty of those very offences which this Court is most frequently called upon to visit with punishment in order to protect its wards? If other Courts have a certain proportion of their suitors in Parliament, this Court, from the importance of the matters brought before it, has a much larger proportion there; and if there be any cases in which members of Parliament—young Commoners and young Lords—are more likely than others to become obnoxious to our jurisdiction, it is pre-

cisely in cases relating to the safety of heiresses and other wards.*

That case may still be supposed in real life, which in the most finished part of the most excellent of his works the poet has so admirably described in the history of a travelled and accomplished profligate, of whom, when in the depth of his desperate fortunes:—

"Stolen from a duel, followed by a nun,"

it is added, as the means of retrieving him—

"But if a borough choose him, not undone."

And such are the men whom this arrogated privilege would suffer to enter within the precincts of this high court of judicature, and to revel in the contempt of the most delicate, the most important of the functions with which it is entrusted.

I have already given a reason why the authority of decided cases in favour of Privilege goes for little, if drawn from times when the most extravagant notions of its extent were entertained; but in the same proportion must any decision against Privilege in those times be held so much the stronger in behalf of the law's authority. I will only refer to a case in *Levinz*,

* That interfering with the custody, or secretly encouraging or abetting the marriage of a Ward of Court, has always been regarded as a contempt in its nature criminal, and punishable as such by commitment during pleasure, see Phipps *v.* Earl of Anglesea, 1 P. Wms. 696, and Kiffen *v.* Kiffen, and Dr. Yalden's case there cited; Herbert's case, 3 P. Wms. 116; More *v.* More, 2 Atk. 157; Anon. (Hughes *v.* Science), 2 Atk. 173; Smith *v.* Smith, 3 Atk. 305; Butler *v.* Freeman, Amb. 301, and the cases referred to in Mr. Blunt's notes; Brandon *v.* Knight, 1 Dick. 160; Stevens *v.* Savage, 1 Ves. jun. 154; Priestly *v.* Lamb, 6 Ves. 421; Millet *v.* Rowse, 7 Ves. 419; Bathurst *v.* Murray, 8 Ves. 74; Warter *v.* Yorke, 19 Ves. 451. In the Practical Register, (p. 134, *Wyatt's* ed.) a distinction is taken between direct and positive contempts, for which the party may be punished by being committed to the *Fleet during pleasure*, and ordinary contempts, where the commitment is only till the order of the Court be obeyed.

which seems to me directly in point—a case never contradicted, never over-ruled, and calculated by decision to make an end of the argument. I allude to the Case of *Wilkinson* v. *Boulton*, before the Court of King's Bench, when Lord Hale presided, and reported by Mr. *J. Levinz*.*

To an action for false imprisonment there was pleaded a justification, under the custom of *London*, for the Mayor and Aldermen to have the custody and guardianship of female orphans till twenty-one or marriage, and for any persons taking such from the guardian appointed by the Mayor and Aldermen, to be brought up before the Court and imprisoned. To this plea, there was a demurrer on two grounds, the first of which is only material in so far as it drew from the Court a declaration that the matter was criminal for which the party had been imprisoned. The second ground was that the custom as alleged was ill, "because it is a custom to commit without exception of peers." This demurrer therefore raised the question distinctly, whether or not a peer could be committed for such contempt of the Court of Aldermen, as consisted in taking an orphan out of the custody by them appointed; and the Court held it clear that a "peer is not privileged in this case" —I cite the book—"for in *homine replegiando*, where he detains the body, he shall be committed; and there was judgment for the defendant, disallowing the demurrer. The authorities cited by the Court, are the Year Book, 11 H. 4. 15, and Fitzherbert's Natura Brevium, 68 c. The former was a case of *homine replegiando*, in which the Sheriff had returned that the distress had been eloigned; and one point made was, that the party was a peer of the realm, "issint que capias ne gist pas vers lui." But the Court took the distinction I have pur-

* 1 Lev. 162.

sued here, and said "en dett et trespas capias ne gist my vers un Count Baron et hujusmodi; per ceo que pur cause de lour estate, il est entend que ils ont assets, &c.; mes en c'est case le tort que el fait, de ce que el ne suffre le replevin estre fait, est le cause que son corps sera pris, de quel estate que il soit;" and reference is made to Redman's Case, in the time of king Richard. The language of Fitzherbert* is equally precise:—"If there be," says that writer, "an eloignment returned by the sheriff, the plaintiff shall have a *capias in withernam* to take the defendant's body, and to keep the same *quousque*, &c., whether he be a peer of the realm, or other common person."

But I am content to rely on the case itself, decided by Lord Hale, and in the same age to which we owe the *Habeas Corpus* Act. It is a case peculiarly in point with the present. The authority with which privilege of peerage was assumed by the demurrer to come in conflict, was that of a city Court; the contempt for which it was alleged that privileged persons could not be arrested, was taking away a ward of that Court. The Court of King's Bench held that the peerage and its privileges afforded no protection in such a case; and to make the authority more applicable, the Court illustrated the decision by referring to the writ of *homine replegiando*, against which, if a peer was refractory, it was held to be clear that he must be committed; that is, if he eloigned the body of the villein, or person sought to be replevied. Now, *Mr. Long Wellesley* has here taken away and detained the ward of this Court; he has eloigned that ward. Is it saying too much to add that a privilege which could not protect a peer in the time of Charles II. against the authority of the Mayor's Court, is still less capable in the present day of pro-

* N. B. 155, C.

tecting a commoner against the authority of the Great Seal?

I have, therefore, the sanction of Wilkinson *v.* Boulton; I have the authority of the Year Book, in the time of *Henry IV.*; I have the great authority of *Fitzherbert*, that a peer of the realm, as well as any other person, shall be committed for obstruction, and contempt in the nature of obstruction to the process of the King's Courts. You will find moreover, that the Star Chamber—I refer to the authority of the Star Chamber reluctantly, but it was a regular Court, and one little likely to err against Privilege—that that Court committed a peer of the realm. The peer had disputed its authority; he was committed for an offence in the nature of a contempt, and by a process such as we should use to compel the performance of an act.

Upon the authority, therefore, of all these cases; upon the authority, still higher in my own judgment, of the principle, and upon the reason of the whole matter, the absolute necessity of applying the laws equally to all classes, and the intolerable nuisance which would be suffered, were 1,000 or 1,100 persons to exist in this country placed by Privilege of Parliament above the law, and enabled to defy the jurisdiction of all the King's Courts—upon all these grounds, I have no doubt whatever that the distinction here is soundly taken—not the distinction laid down by Lord Coke of treason, felony, and breach of the peace on the one side, and offences on the other, where no treason, felony, or breach of the peace has been committed—a distinction inconsistent with itself, fruitful of bad consequences, and incapable of being pursued through the authorities; and that the true grounds upon which to rest the case are these two:—first, that Privilege never extends to protect from punishment, though it may extend to protect from civil

process; and, next, that Privilege never extends to protect even from civil process, where the object of the process is the delivery up of a person wrongfully detained by a party. All the principle, all the authorities, all the reasoning, are in favour of this ground, and it is upon this, and this ground only, that the jurisdiction of all the Courts can safely and securely rest.

DISSERTATION

ON THE

ELOQUENCE OF THE ANCIENTS.

TO

THE HON. MR. JUSTICE WILLIAMS,

&c. &c. &c.

THIS DISSERTATION

IS INSCRIBED TO YOU WITH THE GREATEST PROPRIETY,

NOT ONLY AS TO

ONE PRE-EMINENTLY QUALIFIED TO JUDGE OF THE SUBJECT,

BUT AS TO

A COADJUTOR WHO CONTRIBUTED A MOST VALUABLE

TRANSLATION IN THE APPENDIX.

CANNES, IN PROVENCE,
APRIL 25, 1838.

DISSERTATION.

It is impossible for any but the most careless observer to avoid remarking the great differences which distinguish the Oratory of ancient from that of modern times. The immeasurable superiority of the former is far from being the only or even the principal of these diversities: that proceeds in part from the greater power of the languages, (especially the Greek,) the instrument wielded by the great masters of diction; and in so far the superiority must remain for ever undiminished by any efforts on the part of modern rhetoricians, although extreme care applied to spoken composition may reduce the other advantages of the ancients within a very narrow compass, and give scope to certain advantages, not unimportant, which are possessed by the moderns. But there are other differences yet more broad between the two kinds of Oratory, and these require to be more minutely examined.

Public speaking among the ancients bore a more important share in the conduct of affairs, and filled a

larger space in the eye of the people, than it does now, or indeed ever can again. Another engine has been invented for working upon the popular mind, whether to instruct, to persuade, or to please—an engine, too, of which the powers are not limited in time or in space. The people are now addressed through the Press; and all persons whatever, as well as those whom the bounds of a public assembly can contain, are thus brought in contact with the teacher, the statesman, and the panegyrist. The orator of old was the Parliamentary debater, the speaker at public meetings, the preacher, the newspaper, the published sermon, the pamphlet, the volume, all in one. When he was to speak, all Greece flocked to Athens;* and his address was the object of anxious expectation for months before, and the subject of warm comment for months after the grand display of his powers. It is true that he sometimes committed his discourses to paper afterwards; but so rarely did this happen, that we have only preserved to us the published speeches of three or four Greek and one Latin orator; but those few which were thus written out could hardly, in the times of manuscript distribution, be said to be published at all; while of any thing like the addresses now so frequent upon every occasion of importance, in the form of pamphlets, or other ephemeral productions, any work treating of the topics of the day, or any attempt by writing to influence the public mind for temporary purposes, it does not appear that there ever were examples in ancient times, if we except the speech of Archi-

* Cicero, Brutus, sub fine.

damus, and that to Philip, both written by Isocrates. Indeed, the necessarily confined circulation of manuscript compositions, must have rendered it altogether hopeless to produce any immediate effect on the community by such means. Nor is it enough to say that the rostrum of old monopolized in itself all the functions of the press, the senate, the school, and the pulpit, in our days. It was a rival to the stage also. The people, fond as they were of theatrical exhibitions, from having no other intellectual entertainment, were really as much interested in oratorical displays, as sources of recreation. They regarded them, not merely with the interest of citizens hearing state affairs discussed in which they took a deep concern, and on which they were called to give an opinion; but as auditors and spectators at a dramatic performance, by which they were to be moved and pleased, and on which they were to exercise their critical faculties, refined by experience, and sharpened by the frequent contemplation of the purest models.

That the orators of Greece and Rome regarded their art as one of eminent display, considered it their province to please as well as to move their audience, and addressed the assembly, not only as hearers who were to be convinced or persuaded, but as critics also who were to judge of rhetorical merit, is clear from numberless considerations, some of which must here be adverted to, in order to shew that Ancient Oratory held a place among the Fine Arts properly so called, and was, like them, an appeal to the taste, ending in the mere pleasure of contemplation, as well as an appeal to the reason or the passions, leading to practi-

cal consequences, and having action for its result. An attention to this subject will explain many things in the structure of ancient orations, which would otherwise be with difficulty apprehended.

Of the circumstances to which we have adverted as proving the position in question, some belong to the head of internal, others to that of external evidence—the former being discoverable by inspection of the compositions themselves, the latter resting upon historical evidence of facts.

I. 1. The first of the things belonging to the former class which strikes an attentive student of the ancient orators, is the exquisite finish and perfect polish of their compositions. It really seems as if the fit word were always found in the appropriate place; as if, though every topic may not always be the best possible for the orator's purpose, yet every thing which he intended to say was said in the best possible manner, and so that no farther consideration could ever improve it. "Quæ ita pura erat, ut nihil liquidius; ita libere fluebat, ut nusquam adhæresceret: nullum, nisi loco positum, et tanquam in vermiculato emblemate, ut ait Lucilius,* structum verbum videres. Nec vero ullum aut durum, aut insolens, aut humile, aut longius ductum;† ac non propria verba rerum, sed pleraque translata; sic tamen, ut ea non irruisse in alienum locum, sed immigrasse in suum diceres. Nec vero hæc soluta, nec diffluentia, sed

* Cicero here refers to two verses of Lucilius, the diction of which is remarkable,—

Quam lepide lexeis compostæ! ut tesserulæ omnes
Arte pavimento, atque emblemate vermiculato.

alluding to the ancient Mosaic.

† As we say, far-fetched.

adstricta numeris, non aperte, nec eodem modo semper, sed varie dissimulanterque conclusis.*

But it is also evident, that the exquisite structure of the sentences, the balanced period, the apt and perfect antithesis, the neat and epigrammatic turn, the finished collocation, all indicate an extreme elaboration, and could hardly have been the suggestion of the moment, because the choice of the earlier expressions is often regulated by those which occur subsequently. This fineness of composition must, however, be admitted not to be a perfectly decisive proof of extreme preparation beforehand; both because we can hardly assign any limits to the effects of great practice in giving a power of extemporary composition,—witness the facility of rhyming off-hand acquired by the Italian *improvisatori*,—and also because we cannot be certain that the spoken speech was exactly the same with the one which we now read—"Orationem habuit luculentam, quam postea scriptam edidit"—says Sallust of Cicero's first Catilinarian, as if insinuating that he spoke one speech and wrote another;—a thing which the readers of modern debates, who happen also to have been the hearers of the same, can well comprehend. Indeed, a passage in one of Cicero's Epistles, shows that he was not very scrupulous as to the accuracy with which his published corresponded with his spoken orations. For he gives as the only reasons why he could not accede to Tubero's request (to have something inserted in his speech *Pro Ligario,)* that it was already published, and that he had no mind to defend Tubero's conduct.†

* Cicero, Brutus, c. 79.

† Epp. ad Atticum, xiii. 2.

I. 2. The exquisite figures with which the ancient speeches are interspersed, and the highly skilful disposition of their materials, do not perhaps furnish more decisive proofs than the diction. But the exemplary temperance with which topics are used, and the conciseness with which ideas of the most important kind are expressed, and images portrayed, certainly can hardly be the effect of any experience or practical skill. The emptiness and prolixity of *improvisatori*, and other extemporary composers, shew that this faculty of condensation is not so easily acquired as that of good and even accurate composition. It must, however, be confessed, that this distinguishing characteristic of ancient composition, spoken as well as written, seems to indicate some change having been made in the spoken discourse, when it was reduced to writing subsequently to its delivery. For with all the quickness natural to an Attic audience, and all that expertness which a Roman assembly may be supposed to have acquired from the habit of attentively hearing the finest compositions; it seems difficult to understand how the great passages, delivered in as few words as if attaining the utmost possible conciseness were the object chiefly in the author's view, could make their due impression upon auditors, who, hearing them for the first time, and having no notice of the idea or the image, till it was at a stroke, as it were, presented to their minds, could have time allowed for apprehending it, or at least for tasting its beauty, or feeling its force. The orator often feels that he could add strength to his composition by giving it the concentration of compression, but that if he suddenly presented his ideas to

his audience, he would be in the middle of another sentence, or even another topic, before the blow, so rapidly struck, had produced its full impression, and the mind of the hearer would be in the state of confusion in which a bell throws the ear, when struck so rapidly as to make its successive vibrations interfere with one another. He feels that were he writing for the eye, for such deliberate perusal as enables the reader to pause and dwell upon each successive period until it has told, and even to recur in case of imperfect apprehension, he would prefer another and a more concise annunciation of his ideas; but he must needs sacrifice this advantage to make his due impression. Nothing can be more natural, therefore, than that, on reconsidering the subject, and giving his discourse in writing, he should omit some things which are unnecessary to the reader, who has the words *oculis subjecta fidelibus*. Accordingly, when we recollect in how few words some of the most renowned passages in ancient oratory are couched, as for instance, the ὥσπερ νέφος itself, it seems very reasonable to suppose that some words have occasionally been omitted by the writer, which the speaker had used; just as mathematicians are known to leave out intermediate steps of their synthetical demonstrations, which, in their analytical investigations, were all gone through by them originally.

I. 3. But another peculiarity in the ancient rhetoric is quite decisive upon the question, both proving how much the productions of the orators were the result of great labour, and shewing how much their delivery was regarded as a dramatic display, or at least an exhibition in which the audience was to be pleased,

independently of the business intended to be promoted. Passages are very frequently to be found in one oration, sometimes word for word the same with those contained in another by the same speaker, sometimes varying in certain particulars, and apparently varying because subsequent reflection, perhaps aided by the criticisms of others, or by the effects observed to be produced on the audience, had suggested the change, as an improvement upon the earlier composition. If we only consider how little it is in the natural course of things, that a person addressing perhaps a different audience, nay, still more, the same audience, but certainly upon a different business, should use the very same topics, even the same figures of speech, in the same or nearly the same words, and how likely these must always be, in the active affairs of life, to be inapplicable in one case, precisely because they were applicable in another and a different case, we shall at once perceive that the old orators had other objects in view than the mere furtherance of the matter actually in hand, and that those passages were repeated, rather because they had been found successful in striking and delighting the audience when first pronounced, and were therefore likely to please in the repetition, than because they conduced materially to carry conviction to their minds, and gain their concurrence to a practical proposition. For, certainly, if a person is to be convinced that a certain measure is expedient or necessary, and if the matter addressed to his mind with this view, is precisely the topic, illustrated by the metaphors, and in the words, which he distinctly recollects to have been formerly employed for the purpose of making him assent to a

wholly different proposition, and support a measure of another kind entirely, nothing can be more likely than that he should at once say, "Why, surely I have heard all this before; you told me the same thing last year, on such a question,—you cannot be in earnest—you are playing upon me, or playing with the subject." Such would be the effect of the repetition, upon an audience who were met merely to transact real business, to consider on the merits of the case brought before it, and to act, that is, decide, after mature deliberation and making up its mind, upon conviction.

Accordingly, nothing could prove more fatal to the speaker's object than any such attempt in our assemblies; it would be at once confessing that he had some other object in view than to convince his hearers, and some other business to which he sacrificed the concern in hand. But far otherwise is it, if we suppose that the orator has a two-fold object, and that the audience is collected for another purpose, as well as that of being convinced,—that he desires to gratify, to please, as well as to persuade, and that they are come to enjoy a critical repast, as well as to "expatiate and discourse their state affairs." In this case, the repetition would heighten the zest at each time; as they who love music, or take pleasure in dramatic representations, are never so much gratified with the first enjoyment of any fine melody or splendid piece of acting, as with its subsequent exhibition. A nearer view of the practice referred to, will set this in a sufficiently clear light; and will shew, that these repetitions are not at all confined to trivial passages, which might be forgotten after having been once heard, but on the

contrary, are chiefly to be found in the finer, the more striking, and therefore the more noted passages,—passages which must have been familiar to every hearer. This close examination of the Greek Orations is also highly instructive and curious; for we are thus, as it were, let into the secret of their composition, almost as if the rough draught had been preserved. We don't, perhaps, see the original sketch of the picture, as in examining the designs of some of the great Masters whose works are preserved in their various stages; but we see the discourse from a state with which the orator had, after much labour, at first rested satisfied, and which, but for his exquisite skill, and the fastidiousness which always accompanies genius in judging its own productions, would have remained, and been deemed perfect, by after ages; and we can trace the progress of the work from that to its present finished and absolute form, as we can some of the compositions of Pope, from the MS. preserved in the British Museum, and those of Milton, from the MS. far more valuable, in the Library of Trinity College, Cambridge.

The repetitions are no where to be found so frequent as in the Fourth Philippic, which for this reason has been termed by commentators and critics, the Peroration of the Nine Orations against Philip. Not having, it should seem, considered this subject very attentively, or been aware that numerous repetitions are also to be found in the rest of the lesser orations, they seem to have thought that this notion of a peroration sufficiently explained the whole matter. But in truth the Fourth Philippic is almost entirely a repetition, and chiefly from one of the preceding ones, perhaps the most mag-

nificent of the minor works, that upon the affairs of the Chersonese, sometimes called the Eighth Philippic. If whole passages were to be found in both without any variation, it might be supposed that transcribers had by mistake copied them; or if nearly the whole of one oration were composed of passages the very same with those which occurred in another, we might suppose that oration to be spurious; although even then it might be observed, that the learned monks who beguiled their solitude in the middle ages by fabricating ancient works, always displayed their skill in original composition, imitating no doubt the manner of their models, but never resting satisfied with the unambitious task of culling out passages and working them into a *cento*. But in the Fourth Philippic, there are variations and additions which clearly shew that the orator sometimes improved upon the first thought, sometimes adapted the original sentence to the new occasion; and we can often trace the steps of the process, and perceive the precise reasons which guided it. At the same time it appears that some sentences are retained in the self same state in which they originally were; and this shews that he had at first bestowed so much pains as to bring these to a perfection which satisfied his severe taste, and that, when the same ideas were again to be expressed, he regarded his former selection of words as preferable to any other which he could make. It is a remarkable circumstance that, in these respects, no difference can be traced between the finest passages and those of inferior importance; in both kinds we observe that sometimes there are variations and improvements, sometimes an exact repetition; and this plainly demon-

strates that all the portions of the work were elaborated with extreme art, no part being carelessly prepared and flung in as a kind of cement to fill up the interstices between less splendid passages. In this, as in so many other particulars, how different is the texture of modern discourse! Even one of the greatest, in some respects certainly the very greatest orator of recent times, Lord Chatham, used frequently, especially in his latter days, to speak in a careless manner and in an under tone of voice, for a quarter of an hour or more at a time, as if he did not solicit any attention from his audience, and then to break out into one of those brilliant passages which have immortalized his name.

One of the most remarkable parts of the Fourth Philippic, is that highly wrought description of Philip's implacable hatred to Athens, of the reasons upon which that hatred was grounded, and of his policy in overrunning Thrace; and this passage is to be found also in the Oration upon the Chersonese delivered the year before; but it seems to have been, during the interval, adapted to the circumstances in which the Fourth Philippic was delivered, and to have been somewhat more highly finished. The orator begins by saying in the same words, that the Athenians must first of all dismiss from their minds any doubt of Philip having broken the peace, and of his now waging open war against them. In the Chersonese Oration, when stating this, he calls upon them to give over their mutual wranglings and recriminations; which is omitted in the Fourth Philippic. He then proceeds in the same words in both orations, Καὶ κακόνους μέν ἐστι καὶ ἐχθρὸς ὅλῃ τῇ πόλει, καὶ τῷ τῆς πόλεως ἐδάφει, "he is the deadly enemy (literally evil-dis-

posed and hostile) of the whole city, and of the very ground it stands on;" and then he bursts forth with προσθήσω δὲ,—but in the two orations, this introduces perfectly different matters, and the difference is very remarkable. In the Chersonese, Philip is "the enemy of every creature within the city, and of those too who most flatter themselves that they enjoy his smiles. Do they deny it? Let them look at (the fate of) those Olynthians, Lasthenes and Euthycrates, who, to all appearance, were his familiar favourites, and no sooner betrayed their country into his hands, than they perished by the most miserable of deaths."* But in the Fourth Philippic, he adds, after the words προσθήσω δὲ, that Philip is the implacable enemy, not of all the men within the city's walls, but of the gods in the city; and, by a striking and bold apostrophe, invokes their vengeance upon his head, "καὶ τοῖς ἐν τῇ πόλει θεοῖς,—οἵπερ αὐτὸν ἐξολέσειαν.†" "He is the enemy of the gods themselves who guard us,—may they utterly destroy him!" The reason of this remarkable variation is plainly to be perceived. Possibly he might think the allusion to the fate and the conduct of the Olynthian chiefs not so appropriate when, after the lapse of another year, these things could not be so fresh in the recollection of his hearers; but this is by no means so probable a supposition as that, upon reflection, he had perceived the anticlimax which, it must be confessed,

* Προσθήσω δὲ καὶ τοῖς ἐν τῇ πόλει πᾶσιν ἀνθρώποις, καὶ τοῖς μάλιστ' οἰομένοις αὐτῷ χαρίζεσθαι· εἰ δὲ μή, σκεψάσθωσαν Εὐθυκράτην καὶ Λασθένην τοὺς Ὀλυνθίους, οἳ δοκοῦντες οἰκειότατ' αὐτῷ διακεῖσθαι, ἐπειδὴ τὴν πόλιν προὔδοσαν, πάντων κάκιστ' ἀπολώλασιν.—Oratores Græci, ed. Reisk. vol. i. p. 99.

† Ibid. vol. i. p. 134.

mars the beauty of the passage as given formerly in the Chersonese Oration; where, after describing Philip as the deadly enemy of the very ground the city stands on, he adds, that he is also the enemy of all its inhabitants—a far more mitigated and ordinary species of hostility. True genius may be for a moment at fault; but its characteristic is to derive from failure itself the occasion of new success, and to turn temporary defeat into lasting triumph. Having made Philip the enemy of the ground itself on which Athens was built, he sought about for some stronger description still of his implacable hatred, nor could find it on earth. He therefore must make the Macedonian's enmity war with heaven itself, and from hence he brought out the magnificent apostrophe, which, after the topic it arose out of had thus been wrought up so high, became as natural and easy as it was imposing and grand. After this, the anticlimax would have been of course far greater than ever, of introducing the allusion to the hostility against the inhabitants, and he was compelled therefore to sacrifice the fine allusion to Olynthus. Let us here, in passing, remark how groundless the notion is of those critics who have described Demosthenes as never indulging in figures.* No passage can be more figurative than the one we have been contemplating; nor do tropes of a bolder caste occur in any prose composition, we might add, or in any poetry, than the description of a man's enmity reaching at once to the soil and to the gods—"*a solo usque ad cœlum.*"

* Of this number assuredly was not Cicero; and yet the Roman orators who affected Attic taste, appear to have deemed plainness, dryness, the *humile dicendi genus*, a characteristic of it.

The orator goes on, in both orations, in the same words, to affirm that the government or constitution of Athens is the great object of Philip's hatred, and, as he says, justly. For this he gives two reasons in the Philippic ;—first, because Philip feels those conflicting interests and mutual injuries which must needs make them enemies of each other; and next, because he knows that Athens must always be the refuge of any state which he wishes to subdue, and must ever resist him herself, as long as her democratic government endures. Both these reasons are repetitions, almost in the same words, from former orations; the one is taken from the Second Philippic, delivered three years before, and the other, from the Chersonese Oration. The only material change in the former, is the transposition of the words βεβαίως and ἀσφαλῶς, apparently in order to obviate the bad effects of the same vowels coming together, as they did in the Second Philippic, πάντα τ'άλλα ἀσφαλῶς κέκτηται. Perhaps he also preferred to round the period with ἐν Μακεδονίᾳ, rather than to end more abruptly with οἴκοι. The sense is not varied here any more than it is by the substitution of ἡγεῖται for νομίζει in the Fourth Philippic, a substitution which the orator makes, although the same word ἡγεῖται had ended the clause but one before. The passage taken from the former Philippic is tacked on, as it were, to the one taken from the Chersonese Oration, by the insertion of a few words πρὸς δὲ τούτοις τοσούτοις οὖσιν.

The changes made in the Chersonese passages are remarkable, because we can easily perceive the reasons that led to them, both as regards the sense and the sound. Ἐστὲ γὰρ ὑμεῖς οὐκ αὐτοὶ πλεονεκτῆσαι καὶ κατασχεῖν

ἀρχὴν εὖ πεφυκότες, ἀλλ' ἕτερον λαβεῖν κωλῦσαι, καὶ ἔχοντ' ἀφελέσθαι δεινοὶ (in the Fourth Philippic, καὶ τὸν ἔχοντ' ἀφελέσθαι) καὶ ὅλως ἐνοχλῆσαι τοῖς ἄρχειν βουλομένοις, καὶ πάντας ἀνθρώπους εἰς ἐλευθερίαν ἐξαφελέσθαι ἕτοιμοι, (in the Fourth Philippic ἐξελέσθαι δεινοί). He evidently now considered δεινοὶ the more powerful word, and fitter to close the period, and he avoided repeating it; he also preferred ἐξελέσθαι to a compound of the ἀφελέσθαι, which double compound he had used before; and besides gaining the advantage of concluding with δεινοὶ, he avoided the hiatus occasioned by the αι and ε immediately following each other. Perhaps we may from hence conclude (and other instances will afterwards be pointed out) that sometimes when he allows the same words, or words of the same root, to recur at a very short interval, it is not because he deliberately approves such repetitions, but because he may not have given the diction its last polish. Thus, in the same passage of the Chersonese, a little further on, we have κατασκευάζεται twice in one period, where the repetition is figurative, or at least intensive, and meant to increase the force of the expression; and immediately after, the same word is employed a third time, but with another added, ἐξαιρεῖ, where κατασκευάζεται really seems superfluous. Thus, too, in the beautiful description of public and private life, in the peroration of the Fourth Philippic, ἀπράγμονα is twice used. But in many instances the repetition is intensive, both where the whole word is repeated, and where the root only is taken; as in the Chersonese Oration, ταῖς κατηγορίαις ἃς Διοπείθους κατηγοροῦσι; in the Oration against Aristocrates, where he speaks of persons, κινδύνους κινδυνεύσαντας; and in the

Oration for Ctesippus and others, where he mentions persons, πολέμους πολεμοῦντας. In other instances, where he merely repeats without intension or figure, the fittest word appears to have been selected and employed at first, and the idea recurring, the orator seems to use it a second time as if he did not deign to go out of his way and vary the phrase, and would not, for the mere sake of changing it, use a less appropriate or choice expression.

In the next part of the passages which we are comparing, two instances occur of the orator's using the sentences originally made for one purpose, in such a manner as adapted them to a different state of things. In the Chersonese Oration, the argument is, that Diopeithes must be supported in his predatory attack upon Thrace, both because it was justified by Philip's intrigues in the Chersonese, and his open assistance to the Cardians; and because, whatever thwarted his policy, furthered that of Athens. "All his operations," says Demosthenes, "and his enterprises, are enterprises against this country; and wheresoever any one attacks him, he attacks him in our defence." In the Fourth Philippic, this last member of the sentence is left out, because it evidently, though stating a general proposition, referred peculiarly to the movements of Diopeithes, which were no longer under discussion. Again, when the Chersonese Oration was delivered, Philip had not as yet taken many of the towns in Upper Thrace; and Demosthenes, in speaking of his campaign there, asks if any one can be so weak as to imagine that he would encounter the toils and the dangers of that winter campaign for the sake of such miser-

able places as Drongilus, Cabyle, Masteira, καὶ ἃ νῦν ἐξαιρεῖ καὶ κατασκευάζεται. When the Fourth Philippic, however, was delivered, he was believed to be in possession of all Thrace; therefore, this last expression is altered to καὶ ἃ νῦν φασὶν αὐτὸν ἔχειν. He also expands the fine period immediately following, in which he contrasts the importance of Athens with those wretched conquests, in order to demonstrate that Athens alone can be the real object of Philip's attack; and he introduces an apostrophe containing an invocation something like that which he had added to the earlier part of the passage—"Who can suppose that about Athens, her ports, and arsenals, and navy, and precious mines, and ample revenues, her territory and her renown—which may neither he nor any other conqueror ever tear from our country!*—he should be wholly indifferent, and suffer you to keep quiet possession of them, while, for the millet and rye of the Thracian barns, he is content to bury himself in the winter of that dreary region."†

The two passages in these two orations the most calculated to make a deep impression upon the audience, are bursts of eloquence not surpassed by any in the Philippics, and, with the exception of a single word, they are the same in each. In one of these passages, the orator appeals with the greatest skill to the people's sense of shame, and artfully rouses their feelings without offending their pride; insinuating, that if they wait

* The addition is—καὶ τόπων, καὶ δάξης, ὧν μήτ' ἐκείνῳ, μητ' ἄλλῳ γένοιτο μηδενὶ, χειρωσαμένῳ τὴν πόλιν τὴν ἡμετέραν, κυριεῦσαι. Orat. Græc. ed. Reisk. vol. i. p. 135.

† Literally, "to winter in that dungeon."

for a still more pressing emergency, they will be yielding to the fear of personal violence, by which only slaves are actuated, instead of being moved by a sense of honour.* In the other passage, he appeals with the utmost dignity to the memory of their ancient renown, describing their incapacity to endure subjection, as the ground of Philip's implacable enmity. The effect of both passages, but of the last especially, upon an Athenian assembly, must have been prodigious — *οἶδε γὰρ ἀκριβῶς, ὅτι δουλεύειν μὲν ὑμεῖς οὔτ' ἐθελήσετε, οὔτ', ἂν ἐθελήσητε, ἐπίστασθεν· ἄρχειν γὰρ εἰώθατε.*† Now, these three last words, which for dignity and conciseness may be compared with the celebrated *ὥσπερ νέφος* in the Oration on the Crown, had been used by him for the same purpose, only a few months before, in the hearing of the same assembly; who must all have well remembered them, often repeated them in the interval, much canvassed the merits of the passage, and thus have known that they were coming, as soon as the preceding sentence was begun.

In like manner, there is a repetition, word for word, in the Fourth Philippic, of a most splendid passage in the Chersonese Oration, which forms the continuation of the one we have been contemplating. It is the contrast which the citizens of other States present to the Athenians, in their treatment of traitors. He goes through many of those, indignantly and bitterly affirming that no one durst in *their* hearing have taken the common enemy's part; and he winds up the whole by taunting the traitors with the gains of the preferment to which their disaffection has led, while the country

* Orat. Græc. ed. Reisk. vol. i. pp. 102, 138.

† Ibid. vol. i. pp. 104, 148.

has sunk in proportion as they have risen. This suggests the favourite contrast of Philip's fortunes and their own. "He has become flourishing, and mighty, and formidable to all, both Greeks and Barbarians, while you are become destitute and low—splendid indeed in the abundance of your markets, but in every preparation of any value, utterly ridiculous."* The word "is," (ἐστὶ) instead of "has become," (γέγονεν) is really the only change made in this very striking passage, the winding up of which must have been foreseen by the audience as soon as the preceding long passage began to be pronounced by the orator. The Fourth Philippic has the peroration and the fine apostrophe to Aristodemus connected with this contrast by a remark, that those who have thus betrayed the country, mete out to her and to themselves a very different measure; recommending peace and quiet to her under injury, while they cannot be quiet though no one is attacking them. In the Chersonese Oration, where the passage respecting the conduct of the friends of submission and apathy occurs close to the peroration, as in the Fourth Philippic, it suggests and introduces the magnificent description of a wise and honest counsellor, contrasted with selfish time-servers, which has been ever so much and so justly admired. In the Fourth Philippic, the conduct of those advocates of Philip being exemplified, peculiarly in the instance of Aristodemus, leads the orator to that topic which continues till about the close of the whole.

* Ὁ μὲν εὐδαίμων καὶ μέγας καὶ φοβερὸς πᾶσιν Ἕλλησι καὶ Βαρβάροις γέγονεν, ὑμεῖς δ' ἔρημοι καὶ ταπεινοὶ, τῇ μὲν τῶν ὠνίων ἀφθονίᾳ λαμπροὶ, τῇ δ' ὧν προσῆκε παρασκευῇ καταγέλαστοι. Orat. Græc. ed. Reisk. vol. i. p. 106.

In the Second Olynthiac, there is a very remarkable passage, in which the orator, who has, for the greater part of his discourse, been contending that the foundations of Philip's power are not solid, and has illustrated this position in various ways, comes to speak of the vices of his private life, and adds, that all these defects of his are for the present concealed and cast into the shade by the brilliancy of his successes; *εὐπραξίαι δειναὶ συγκρύψαι καὶ συσκιάσαι τὰ τοιαῦτα ὀνείδη*, says he, "if it be the pleasure of the Gods and of yourselves, they will be made to appear before long—for as in our bodies, when one is in good health, the peculiar flaws in the system do not shew themselves; but if any malady comes on, then they are all stirred up,—fractures, sprains, and whatever else is faulty; so it is with states and sovereigns."* Now upon this it may be remarked, that it is the first rough sketch of the figure, and is liable to considerable objection; for the subject in hand was not Philip's private vices, but the concealed weakness of his dynasty. The vices are introduced as proof that his nature is rotten, and that his fortune will be evil, (*γνώμης καὶ κακοδαιμονίας δείγματα*); but those vices are for the present covered by his successes; nevertheless they will break out when the tide of his fortune turns. Then the simile of the bodily defects is given to illustrate this tendency of misfortune to reveal secret profligacy,—not to bring out concealed defects in political strength—and yet his application of the

* "Ωσπερ γὰρ ἐν τοῖς σώμασιν ἡμῶν, τέως μὲν ἂν ἐρρωμένος ᾖ τις, οὐδὲν ἐπαισθάνεται τῶν καθ' ἕκαστα σαθρῶν· ἐπὰν δὲ ἀρρώστημά τι συμβῇ, πάντα κινεῖται, κἂν ῥῆγμα, κἂν στρέμμα, κἂν ἄλλο τι τῶν ὑπαρχόντων σαθρὸν ᾖ. Orat. Græc. ed. Reisk. vol. i. p. 24.

simile is to the structure of states. There must, therefore, be admitted both to be some confusion and some reasoning in a circle throughout the passage, although the simile, if clearly applied, would suit both purposes. In the Oration upon the Letter, (sometimes called the Eleventh Philippic) the same figure is used, but with the most perfect precision. The alterations made in the structure of the passage are also remarkable.

The argument of the Oration on the Letter is, indeed, throughout, the same with that of the Second Olynthiac; namely, that the real power of Philip is much less formidable than it appears to be—and in pursuing this, he unavoidably falls upon the same topics, sometimes introducing sentences formerly used; but the difference is so considerable, in general, that one should say he might have composed the second speech without having the first under his eye. The contrast between the thirst for glory in Philip, and his people's desire of repose after suffering so much from the war, is finely given in both orations, though in different words, and variously wrought up. It reminds us of the similar topics so often used in the time of Napoleon, for the same purpose, and nearly in the same terms. Reference is also made in the latter Oration, to Philip's personal character; but the general attack on his private life is judiciously omitted; and one part is singled out, which is immediately connected with the argument, because it has a tendency to alienate from him his people, his allies, and his troops—this is his jealousy of all military merit but his own; which made him anxious to monopolize the whole glory of his wars. In the Olynthiac, the Ora-

tor had stated, on the authority of a Macedonian worthy of credit, (*ὡς ἐγὼ τῶν ἐν αὐτῇ τῇ χώρᾳ γεγενημένων τινὸς ἤκουον, ἀνδρὸς οὐδαμῶς οἷόν τε ψεύδεσθαι*) that his body-guard and the foreign troops in his service, though excellent and brave soldiers, are discouraged by his jealousy, which makes him turn his back on any of them who may have distinguished himself. In the Oration upon the Letter, he treats this as a well known weakness in Philip's character, quite incontestable, and avowed by all who approach his person, so that the chiefs who have gained victories are worse treated by him, than those who have sustained defeats. This is all he charges, in that oration, upon his personal character; and then he asks how it happens, that his followers should so long have remained faithful to such a chief. It is in answering this question that he introduces the passage formerly, that is nine years before, used in a somewhat different way in the Second Olynthiac. The words are the same with those which were cited above, substituting *τὰς ἁμαρτίας* for *τὰ τοιαῦτα ὀνείδη*, the latter word clearly applying to the scandalous private life, just before described, but wholly omitted in the latter speech. He proceeds with the simile slightly changed. As it begins with *συμβαίνει γὰρ* instead of *ὥσπερ ἐν τοῖς σώμασιν*, the verb *ἀῤῥωστήσῃ* is used instead of the substantive *ἀῤῥωστημα* with *συμβῇ*, and instead of repeating *σαθρὸν* after *σαθρῶν*, as in the Olynthiac, *μὴ τελέως ὑγιαῖνον* is delicately substituted in the latter oration. There is a material difference too, in the application which follows the simile in the two speeches. In the Olynthiac, it was,—"In like manner, while the war is only carried on abroad, the defects of power in states and monar-

chies do not appear; but when it comes to the frontiers, then it brings all those faults out." But in the latter oration it is,—"So in monarchies, and in all states, as long as war is successful, their vices are concealed from every eye; but as soon as a reverse occurs, which it is very likely he should now experience since he has undertaken things above his strength, then all these embarrassments become manifest to every one."* It is plain that this application is by no means such a departure from the form and gist of the simile introduced to illustrate a public though personal vice, and a plain source of political weakness, as was the application in the Olynthiac, where the simile had been introduced to illustrate the concealment of Philip's scandalous private life.

Nevertheless, the same figure was destined to be a third time used, and with far more perfect finish and elaboration, though not applied to Philip at all, nor indeed to national resources, nor any state affairs whatsoever, but to Æschines, and to his conduct and public character. In the great oration delivered seven years later, he launches out into a fierce invective against Æschines, distinguished by all the beauties of his fiery and rapid eloquence. Reproaching him with gaining by the misfortunes of his country, he exclaims, "You prove it by all your life, and all you do, and all you say, and all you do not say. Is there any thing in agitation for the interest of the state? Æschines is mute. Does any thing go wrong and disappoint our expectations? Forth comes Æschines—as old fractures

* Orat. Græc. ed. Reisk. vol. i. p. 156.

and cramps break out the moment any malady attacks the body."* Beside the great improvement in the diction and in the more perfect application, it is remarkable how much more bold this simile is here, than in its original use on the two former occasions. There, it was less adventurously used to illustrate the breaking out of evils, weaknesses, or vices, to the public view, on any reverse or general blow befalling the state or the individual; here, it is really used in a very strong sense; for the meaning is, that Æschines himself resembles a disease of the state, and breaks out when once general misfortune or malady seizes the body politic.

The passage of which we have just been tracing the history and progress, is certainly one so remarkable, that it must have been familiarly known among a people devoted to the enjoyment of public exhibitions, whether political or dramatic; and we may well suppose them to have been acquainted with it, as they were with the more striking passages in the writings of the Tragedians. The famous λέγεταί τι καινόν in the First Philippic, is another instance of the same kind; and perhaps was the best known, because the most successful of all the bursts, alike happy and unexpected, in which the lesser orations abound, not to mention that it occurs in the speech in which he first declared war against Philip. Yet we have a repetition of the same burst in the Oration upon the Letter, only

* Δηλοῖς δὲ καὶ ἐξ ὧν ζῇς, καὶ ποιεῖς, καὶ πολιτεύῃ καὶ πάλιν οὐ πολιτεύῃ. Πράττεταί τι τῶν ὑμῖν δοκούντων συμφέρειν; ἄφωνος Αἰσχίνης. ἀντέκρουσέ τι καὶ γέγονεν, οἷον οὐκ ἔδει; πάρεστιν Αἰσχίνης· ὥσπερ τὰ ῥήγματα καὶ τὰ σπάσματα, ὅταν τι κακὸν τὸ σῶμα λάβῃ, τότε κινεῖται. Orat. Græc. ed. Reisk. vol. i. 294.

applied to that Letter, as well as to the general fact of a Macedonian making war upon Athens. Contrasting their own supineness with their enemy's activity, he exclaims,—"But we, if you will have the truth told, doing absolutely nothing, sit down, always putting off, and proposing devices, and asking one another in the market-place, if there is any thing new. And what can there be more new, than a man of Macedon overawing the Athenians, and daring to send us such letters as you have just heard read." The two passages are as follows,—the diction being in several parts changed.

In the First Philippic, it is—"Η βούλεσθε, εἰπέ μοι, περιϊόντες αὐτῶν πυνθάνεσθαι κατὰ τὴν ἀγορὰν· λέγεταί τι καινόν; γένοιτο γὰρ ἄν τι καινότερον, ἢ Μακεδὼν ἀνὴρ Ἀθηναίους καταπολεμῶν, καὶ τὰ τῶν Ἑλλήνων διοικῶν;* In the Oration upon the Letter, it is—Ἡμεῖς δὲ (εἰρήσεται γὰρ τἀληθῆ) οὐδὲν ποιοῦντες ἐνθάδε καθήμεθα, μέλλοντες ἀεὶ, καὶ ψηφιζόμενοι, καὶ πυνθανόμενοι κατὰ τὴν ἀγορὰν, εἴ τι λέγεται νεώτερον. Καίτοι, τί γένοιτ' ἂν νεώτερον, ἢ Μακεδὼν ἀνὴρ καταφρονῶν Ἀθηναίων, καὶ τολμῶν ἐπιστολὰς πέμπειν τοιαύτας, οἵας ἠκούσατε μικρῷ πρότερον;† It must be allowed that the original passage is the more spirited, and on the whole the finer of the two, and that the application of it to the receipt of the letter, in the latter oration, is somewhat flat, after the striking application on the former occasion. It is, however, redeemed by a fine burst which follows, and in which he contrasts the Athenian inaction with Philip's energy and valour—"enamoured with danger, his whole body covered with wounds"—

* Orat. Græc. ed. Reisk. vol. i. p. 43.

† Ibid. vol. i. p. 136.

the original idea of the more famous passage in the great Oration on the same subject.

It is worthy of remark, that the perorations, if by this we mean the very concluding sentences of all, in the Greek orations, are calm and tame, compared with the rest of their texture, and especially with their penultimate portions, which rise to the highest pitch of animation. There seems to have been a rule enjoined by the same severe taste which forbade any expression of passion in a statue, that the orator should close his speech in graceful repose. The same principle appears to have been extended to each highly impassioned portion of the discourse: the orator must, it should seem, always shew that he was entirely master of himself, and never was run away with by the vehemence of the moment. It appears that the signal failure of Æschines in his great Oration (on the Crown) may be traced to this source. Certain it is, that, had he closed that noble performance before the last sentence, nothing ever was more magnificent than his peroration would have been. The idea is grand, simple, and striking—that of desiring his audience, when his antagonist shall call around him the accomplices of his crimes, to imagine they see surrounding the place he speaks from, all the mighty benefactors of their country—Solon, the wise lawgiver, and Aristides, the pure and disinterested statesman, beseeching the Athenians not to prefer the eloquence of Demosthenes to the laws or their oaths, or to crown him for treasons far greater than made those patriots of old banish for ever far lesser offenders; that they behold Themistocles, and all those who fell at Marathon and Platææ—who never can endure him being

honoured by the country who had conspired with the barbarians against Greece. The execution is as fine and majestic as the conception is noble. Every allusion to these ancient worthies is brought to bear on Demosthenes; every expression that is most sonorous, and yet most appropriate and most picturesque, is applied. The concluding sentence of all is bold, yet sustained in the loftiest flight of eloquence. Nothing prevented it from holding for ever the place which the celebrated oath in Demosthenes now holds at the head of all the triumphs of rhetoric, except that it was followed by this divine passage, to which its merit is little inferior, and to which it manifestly gave the hint; for the resemblance is close, in one place, to the very words—"Themistocles, and those who fell at Marathon, and those who fell at Platææ, and those tombs of your forefathers—think you not that they will send forth groans when you shall crown him who conspired with the Barbarians against the Greeks?"* All this success, which would have been prodigious, was sacrificed apparently to the necessity of closing with a more ordinary and less elevated passage; nor would it have been sacrificed, if that closing passage had strictly followed the rule, and had not contained the absurd and even ludicrous words, invoking the sun, earth, and knowledge—for all the rest is merely tame and correct, like the usual perorations of the Greek orators.

To this rule of calm peroration, however, there are

* Θεμιστοκλέα δὲ καὶ τοὺς ἐν Μαραθῶνι τελευτησάντας, καὶ τοὺς ἐν Πλαταιαῖς, καὶ αὐτοὺς τοὺς τάφους τῶν προγόνων, κ.τ.λ. In Demosthenes we have, τοὺς ἐν Μαραθῶνι προκινδυνεύσαντας τῶν προγόνων, καὶ τοὺς ἐν Πλαταιαῖς παραταξαμένους, with an allusion immediately following, to their tombs.

some sufficiently remarkable exceptions. That of Demosthenes' great Oration is one, as if to shew his rival that he could, contrary to the practice, introduce a highly-wrought invocation into the closing period, and introduce it with vast effect. The Oration upon the Embassy likewise concludes with a most animated declamation. That upon the Liberty of Rhodes, affords another instance of an impassioned peroration, and it is a repetition from the Oration upon the Administration of the Commonwealth, (*περί Συντάξεως*)* where, in the middle of the speech, a passage is given, repeated in a great measure from the second Olynthiac,† but containing, in words nearly the same with the peroration of the Rhodian Oration,‡ a warning that the men of former times had not left the trophies of their victories as mere objects of fruitless wonder to posterity, but in order that they who gazed might emulate the virtues of those who erected them. This is added in the speech upon the Administration, not being found in the Olynthiac, and it is repeated from the former, in the Rhodian Oration. The date of the Oration upon the Commonwealth is uncertain; but it could not be long before that of the Rhodian speech, which was in the second year of the 107th Olympiad, the First Philippic having been only delivered the year before.

Instances, among others the last given, have been already noted, of the same figure or topic being employed to serve very different purposes, the adaptation being effected by an exceedingly slight alteration in the words. But others are not wanting where the

* Orat. Graec. ed. Reisk. vol. i. p. 174. † Ibid. vol. i. p 35.
‡ Ibid. vol. i. p. 201.

same topic, and nearly in the same words, one or two only being changed, is used for the purpose of enforcing positions of diametrically opposite kinds. One of the most singular of these examples of inconsistency, is to be found in the very splendid Oration against Aristocrates, composed, according to Plutarch, when the Orator was only twenty-eight years of age, and certainly delivered when he was only thirty, by Euthycles for whom it was written. The object of it was to attack a decree denouncing outlawry against any person who should slay Charidemus, as a remuneration for the services of that foreign general. In the beautiful passage to which we are referring, the orator contrasts with this lavish distribution of public honours, nay, this invention of a new privilege, the slowness of their ancestors even to admit that individuals natives of their own country had the merit of saving the state, and the scanty reward which they deemed equivalent to any services a stranger could render. His argument is, that when foreigners had conferred the highest benefits on the state, they never were in return protected by such decrees as the one in favour of Charidemus, but obtained the rights of citizenship, which were not then prostituted, and therefore were deemed of high value; and he names two instances of this judicious system of rewards, in the cases of Menon and Perdiccas. Now, in the Oration upon the Administration of the Commonwealth, he is inveighing against the prostitution of public honours, and particularly that lavish distribution of the rights of citizenship; and he repeats, almost word for word, the passage which he had composed for Euthycles; only that he says their ancestors never

thought of giving those rights of citizenship to Menon and Perdiccas, but only an exemption from tribute, deeming the title of citizen to be a reward far greater than any service could justify them in bestowing. In the Oration against Aristocrates, after describing the services rendered by Menon, he says; in return for these benefits, 'our ancestors did not pass a decree of outlawry against any one who should attempt Menon's life, ἀλλὰ πολιτείαν ἔδοσαν—and this honour they deemed an ample compensation.'* But, in the Oration upon the Commonwealth, after describing Menon's services in the same words, he says 'οὐκ ἐψηφίσαντο πολιτείαν, ἀλλ' ἀτέλειαν ἔδωκαν μόνον.'† Again, in the two orations, he describes Perdiccas's services in the same words; but in the one he says, our ancestors did not decree that whoever attempted his life should be outlawed, ἀλλὰ πολιτείαν ἔδωκαν μόνον; and in the other he says, οὐκ ἐψηφίσαντο πολιτείαν, ἀλλ' ἀτέλειαν ἔδωκαν μόνον, and adds, that they withheld the πολιτεία, 'because they deemed their country great, and venerable, and glorious, and the privilege of bearing its name far above any stranger's deserts.'‡ Both orations then proceed to complain, but in different language, of the manner in which that title had been prostituted.§

The ultimate judgment pronounced as it were by

* Orat. Græc. edit. Reisk. vol. i. p. 687. † Ibid. vol. i. p. 173.

‡ It might have been supposed that, in the Oration against Aristocrates, πολιτεία had, by an error, crept into the MSS. instead of ἀτέλεια; but, beside that the expression ἱκανῇ τιμῇ applied to the reward the first time it is mentioned, would not be justly descriptive of the merely pecuniary exemption in which the ἀτέλεια consisted; the second instance, that of Perdiccas, is immediately followed by the reason, namely, that the τὸ γενέσθαι πολίτας παρ' ὑμῖν was always held a sufficient honour to call forth any services.

§ Edinburgh Review, vol. xxxvi. pp. 97, 98.

the orator upon his own compositions, and recorded in the changes which he made when repeating the same passage, has been already adverted to in general terms. It is not perhaps very surprising that we sometimes find this judgment at variance with that of the less refined and severe taste of modern critics. Thus, the Second Olynthiac contains a very well known and most justly admired description of the slippery foundation upon which ill-gotten power rests. * If a translation of this be here attempted, it is certainly under a deep conviction how impracticable any approach, in our language, must be to the great original.

" When a confederacy rests upon union of sentiments, and all have one common interest in the war, men take a delight in sharing the same toils, in bearing the same burthens, and in persevering together to the end. But when, by aggression and intrigue, one party, like this Prince, has waxed powerful over the rest, the first pretext, the slightest reverse, shakes off the yoke, and it is gone! For it is not, O men of Athens, it is not in nature, that stability should be given to power by oppression, and falsehood, and perjury. Dominion may for once be thus obtained; it may even endure for a season; and, by the favour of fortune, may present to men's hopes a flourishing aspect; but time will search it, and of itself it must crumble in pieces. For as the lower part of buildings and vessels, and all such structures, should be the most solid, so ought the motives and principles of our actions to be founded in justice and in truth."

Of this noble passage nearly the whole is repeated in the Oration on the Letter, but with remarkable vari-

ations. Instead of πονηρία, which perhaps rather describes active, meddling, mischief-making intrigues, than cunning and crafty ones, ἀπάτη καὶ βία are used, as better describing force and fraud; and ἐπιβουλὴ (treachery) is added to πλεονεξία, the πονηρία being now dropped, to avoid the alliteration. Then the ἀνεχαίτισε, which some critics had so much commended, though, be it observed in passing, with considerable discrepancy as to its precise meaning, is wholly left out. It had been taken by its chief admirers as a figure borrowed from a horse shaking off some burthen of which he is impatient. Reiske, a high authority, explains it by the rubbing of an animal's hair in the wrong direction, *i. e.* from tail to head, and also by the effect of fear in erecting the hairs. Constantine renders it, when neuter, by "mordere frenum ut equus erectis auribus," in which Henry Stephens agrees. Hesychius (cit. Ulpian.) gives a sense similar to the one in our translation, and the expression is certainly picturesque and striking. Nevertheless, so thought not Demosthenes; for in the repetition he entirely omits the word, and substitutes for it διέσεισε, "shook to pieces," or "shivered"—a powerful word, but one which is much less figurative than ἀναχαιτίζω. The translation of the passage, as ultimately amended and elaborated by its great author, will therefore stand thus—"When intrigue and ambition have created the dynasty, as his have done, by craft and by violence, the slightest pretext, the most common mischief, shivers it in a moment, and it is gone!"

The examination into which we have entered, though minute, is not more so than was necessary to shew the extreme care of composition which guided the

workmanship of the Greek orators; to prove that they delivered their orations as finished productions, with the view of satisfying a critical audience; and to illustrate the position, that the audience flocked to hear them, as well for the pleasure of the treat thus afforded to their refined taste, as for the more useful purpose of hearing state affairs practically discussed. There are, however, not wanting circumstances of External Evidence, which prove the same positions as to the pains bestowed upon ancient compositions, and the highly artificial nature of Greek and Latin oratory.

II. 1. The number of speeches written, published, and preserved, and which yet never were spoken, is among the most remarkable of these proofs. Nothing can more strikingly illustrate the difference between Ancient and Modern rhetoric. With us, a speech written at all before delivery, is regarded as something anomalous, and almost ridiculous; because, the proofs of preparation being inconsistent with the inspiration of the moment and the feelings under which the orator is always supposed to speak, we naturally enough feel that it should be carefully concealed from the eye of the audience, and that their being admitted as it were behind the scenes, at once dispels the illusion so necessary to be kept up. But a speech, written and published, which never was spoken at all, is with us at once given over to extreme ridicule; and a speech intended to have been spoken, is a kind of bye-word for something laughable in itself, as describing an incongruous existence. So entirely different was it of old, that five of the seven orations of Cicero against Verres, were never spoken;

that the finest of all his orations, the Second Philippic against Marc Antony, was never delivered at all;* nay, was composed apparently without the least intention of being spoken; and there are doubts if his next best,† that for Milo, was spoken; it having certainly never been heard by the audience. Yet these orations, both the introduction to the Defence of Milo, and the Philippic in many passages, contain direct references to what could only be known by the speaker when he actually was in the Rostrum; as the alarm occasioned by the crowd of armed men that filled the forum, the attentive demeanour of the audience, and the effect produced on the adversary by the delivery of the preceding passages. Had the orations been delivered, these things might easily have been added before publication; but they were put in at random, on the speculation of something happening to bear them out, in the Speech for Milo, which was intended to be spoken; and they were pure fictions with no reference whatever to the fact, in the Speech against Antony, which was composed without any view to being delivered at all. It must be admitted, that nothing can possibly be more artificial than a composition purporting to be a speech actually delivered on a particular day, which yet never was intended to be delivered on any day, which yet contains allusions to that particular day as bearing upon the argument, and which not only asserts that certain

* Epp. ad Atticum, lib. xvi. ep. 11.

† The anecdote of Milo, when he read it at Marseilles, jocosely and most unbecomingly remarking, that had it been delivered, he never would have been eating those excellent oysters, is well known; but it is not decisive; and is applicable either to the speech never having been delivered, or not having been heard.

things spoken must make the object of vituperation feel as if he were torn in pieces, but actually affirms that he is at the moment growing pale with fear, and in a state of perspiration.*

The Greek orators have not left us more than one or two examples of the same kind; or if they have, we are too imperfectly acquainted with the history of the speeches, to know whether or not any of them were written only, and not spoken. One is Demosthenes' Oration against Midias, who, having given him a blow in the theatre while filling a public office connected with religious rites, was adjudged by the assembly of the people guilty of impiety, and the question was to come before the judges, what fine or damages he should pay. The Orator's speech, and one of his finest, was composed for this occasion; but Æschines openly charges him with having compromised the matter before the argument.† The same fact is stated by Plutarch, but probably from Æschines.‡ This, then, as a speech, was never spoken, but it was composed with the full intention of being delivered. Of orations like the Second Philippic, never intended to be spoken, yet composed in all the form of speeches, we have no instances, at least none that we know of,

* "Hunc unum diem, hunc unum, inquam, hodiernum diem." "Hæc te lacerat, haec cruentat oratio. "Apparet esse commotum: sudat—pallet—quidlibet, modo ne nauseet, faciat." Phil. ii.

† Κατὰ Κτησιφῶντος. When he says that Demosthenes received *thirty* minæ for the injury, and for the vote of the people which he had obtained against Midias, he means plainly that the first judgment only had been given, and that the other respecting ὑπερτίμησις, or assessment of fine, remained to be given.

‡ It must be mentioned that Plutarch says it was uncertain whether the Oration of Demosthenes on the Embassy ever was delivered.

unless it be the two speeches of Isocrates, one to Philip, and the other by Archidamus, which are professedly fictitious, and rather pamphlets than orations. But we have an instance of much the same description with the Latin unspoken orations, in the speeches written by one person for the purpose of being delivered by another. Thus the Oration against Aristocrates, was written to be delivered by Euthycles; that against Androtion was composed for and spoken by Diodorus; that against Timocrates also for a person of the name of Diodorus; the two against Aristogeiton (which, however, are supposed to be spurious,) for Ariston; leaving only the Oration against Leptines's law, in which Demosthenes seconded Ctesippus, delivered by himself; to say nothing of all the Ἰδιωτικοι, or speeches on Private Causes, which, by the rules of procedure at Athens, must all have been delivered by the parties themselves, the orators writing them, unless where leave was obtained from the Court for a professional orator to follow, support, or second them (συναγορεύειν); so that of the thirty-three Private Orations of Demosthenes, only the five in which he was himself the party, that is, three against Aphobus, and two against Onetor, were delivered by the author. Thus, again, all Isæus's orations were written in the name of the parties, and to be delivered by them. Isocrates, too, is known never to have attempted speaking after his first failure; all his orations, therefore, were written without a view to being spoken by himself.

II. 2. Akin to this, of speeches composed and not delivered by the author, nor ever intended to be delivered at all, is the other fact well known to stu-

dents of antiquity, that there remain compositions of the greatest of Orators, which were prepared apparently without any subject; we refer to the Προοίμια of Demosthenes, of which no less than fifty-six have reached us; and of these only three or four seem to have any connexion with any speeches ever made by him. Respecting these Procemia, there has been some difference among the critics, and an opinion has been started, that they were only parts of speeches which he intended to make, but had not time to compose, except the introductory portion, which, for the purpose of their argument, these critics assume to be the most difficult part. But independently of the gratuitous, and indeed erroneous nature of this assumption, the texture of these compositions does not bear out the theory, nor is it consistent with the probabilities of the case. For *first*, with the exception of a very few, these Introductions are all as general and vague, and bear as little relation to any real question, as Sallust's introductions to his two histories.

Secondly, Some of the Introductions are word for word the same with the Introductions to orations actually pronounced. Of this description are those of the Rhodian Oration, which is the same with the twenty-sixth Procemium; and the Oration on the Symmoriæ, the same with the sixth Procemium. Why then should these Introductions be preserved among the rest which are not found in any speeches delivered, unless the fact were, that those had been in the collection of ready made Introductions, and had been used when wanted, but that the others had not?

Thirdly, The Exordium of the Megalopolitan Oration

is word for word the same as the seventh in the collection; but it is not in general like the greater number of the Proœmia; being manifestly made for the speech, to the subject of which it particularly relates. It should seem, therefore, that it had found its way by accident among the others. The like may be said of the twenty-third, which relates to the subject of the Rhodian Oration, and was probably composed and intended to be used as the Introduction to that speech, but laid aside, the other and twenty-sixth ready-made one being preferred to it.

Fourthly, The Exordium of the First Philippic agrees in most essential particulars with the beginning of the first in the collection; but above one half of the latter is wholly omitted in the Exordium of the real oration; only a part of it is, in substance, though in different words, afterwards introduced into the latter part of the speech. Now, whoever shall read this first Proœmium, will at once perceive that the first few sentences are so general, as to be capable of being used for almost any speech delivered at any time; and that the rest consists of topics which might be used at any time when affairs were going on badly. It is quite plain, then, that this Exordium was intended for pretty general use, and that part of it was used as an Exordium, part introduced in the course of the oration, and the rest never used at all.

Fifthly, It seems contrary to all probability, that there should have been lost no less than fifty-two orations; and equally so, that Demosthenes should have delivered so many without preparing more than the Exordium—yet unless the collection were of ready-

made Introductions, one or the other of these things be supposed.

Lastly, It seems clear, that although by far the greater number of these compositions are intended for Exordiums, some are not—but rather striking passages which had occurred to the orator, either as relating to particular subjects on which he might afterwards compose orations, or as passages not relating to any particular subject, and which might be of general use. The collection, however, is a very remarkable illustration of the extremely artificial texture of the Greek orations, and of the vast pains bestowed upon their compositions by the Attic orators.

The Roman orators furnish us with instances of a similar description. Cicero had a *Liber Exordiorum* also, as we learn from the pleasant anecdote which occurs in his Epistles. He had, it seems, by mistake, sent to Atticus, as the Exordium of his treatise *De Gloria*, the introduction to the third book of the Academic Questions; and when, in reading the Academics on his voyage to Vibo, he found how he had defrauded his friend of an Exordium—Cicero bids him cancel it and prefix another, which he sends, whether newly made, or from his collection of ready-made Introductions, does not quite clearly appear. "Id evenit (says he) ob eam rem, quod habeo volumen procœmiorum. Ex eo eligere soleo, cum aliquod σύγγραμμα institui. Itaque jam in Tusculano, qui non meminissem me abusum isto procœmio, conjeci id in eum librum quem tibi misi. Cum autem in navi legerem Academicos, agnovi erratum meum. Itaque statim novum procœmium exaravi; tibi misi. Tu illud desecabis, hoc

agglutinabis."* It is clear that such introductions could have no possible connexion with the subject matter, but might, like Sallust's preliminary chapters on human nature, have suited any one work as well as another.

II. 3. The testimony of ancient historians and other writers, shews us how vast the pains were, and how various, and how unremitting, which the Orators, and indeed all writers, took in elaborating their compositions. Demosthenes especially is well known to have been invincibly averse to extemporaneous speaking. Plutarch relates of him, that he could hardly ever be induced to speak off hand, however often called upon in public assemblies.† He never would trust his "success to fortune,"—that is, to the inspiration of the moment; and some have surmised, not without appearance of truth, that his well known failure before Philip, of which so lively a description has been given by Æschines in his great Oration, was owing to the want of preparation under which he then laboured. An anecdote is related of him, that when Pytheas taunted him with "his speeches smelling of the lamp," his answer was, "True, but your lamp and mine do not give their perfume to the same labours." He also was in the habit of defending such preparations by asserting that it evinced more respect for the people, and was therefore more becoming a good citizen in a

* Epp. ad Atticum, lib. xvi. ep. 6.

† The friends of Monti will here not fail to recollect that great poet's invincible repugnance to extempore versification.

democratic state. Pericles, whom he so greatly admired, had the same aversion to extempore speaking. It is nevertheless recorded of Demosthenes, that when, upon some rare occasions, he trusted to the feeling of the hour, and spoke off-hand, his eloquence was more spirited and bold, and he seemed sometimes to speak "as from a supernatural impulse." The care which Plato took of his diction is equally well known. His copiousness has been the subject of much admiration, and extolled as a kind of natural faculty. "Non hominis ingenio, sed quodam Delphico oraculo instinctus," says Quintilian,* as if he poured forth the flood of his eloquence by a kind of inspiration. Excelling all men, "eloquendi quâdam facultate divinâ," says Cicero.† Nor can any of the littleness, the minuter and miniature ornaments, like the execution of some pictures of the Flemish school, be ascribed to him of whose style it was said, that had the Father of the Gods spoken in Greek, he would have used none other language than Plato's. Nevertheless, we know how exquisitely his diction was wrought, of which the first of ancient critics had said, that it resembled a piece of sculpture or chasing, rather than written composition;—*οὐ γραπτοῖς ἀλλὰ γλυπτοῖς καὶ τορευτοῖς ἐοικότας λόγους.*‡ He continued correcting, and new-moulding, and refining his language to his eightieth year; and after his decease, a note book was found, in which he had written the first words of his treatise on Government several times over, in different arrangements. The words are, *Κατέβην χθες εἰς Πειραιᾶ μετὰ Γλαύκωνος τοῦ Αρίστωνος.*

* Lib. x. cap 1. § 81. † Orat.

‡ Dion. Halicarn. De Struct. Orat. § 25.

"I went down yesterday to the Piræus with Glaucon the son of Ariston."* Others relate the circumstance as if all the changes were made on the first four words, which indeed appears to be most probable when we attend to the meaning of the four last.

II. 4. All the accounts which have reached us of the course of training and study which the ancient orators went through previous to venturing upon the formidable scene of rhetorical display, and even after they had begun their career of eloquence, afford additional proofs of the extreme care bestowed upon their art. Demosthenes is supposed to have studied under Plato. "Lectitavisse Platonem studiose, audivisse etiam Demosthenes dicitur,—idque apparet ex genere et granditate verborum."† Plutarch quotes Hermippus for the statement, that he received Isocrates's rhetorical system from a Syracusan of the name of Callias, and other scholars of that orator, and profited by the study of them.‡ The pains which he took to cure or subdue his natural defects of voice and utterance, are well known. But he also applied himself diligently to rhetoric under Isæus, the most famous advocate of the day. It is also recorded of him, that he wrote out the whole of Thucydides eight times with his own hand, to impress the vigorous and impressive style of that great historian on his memory; and that he could repeat his works by heart. His study of delivery under the comedian Satyrus is well known;§ and he

* Dion. Halicarn. De Struct. Orat. § 25.
† Cic. Brut. 121. ‡ In Vit. Dem.
§ Plut. in Vit. Dem.

is said also to have taken lessons from another actor, named Andronicus.*

Cicero took equal pains in acquiring his art, nor ceased to learn after he had taken his place in the Forum, and even on the Bench. He accustomed himself to translate into Latin the works of the Greek orators, in which exercise he said he resolved "ut non solum optimis verbis uterer, et tamen usitatis, sed etiam exprimerem quædam verba imitando, quæ nova nostris essent, dummodo essent idonea."† Nor did he confine himself to the orators; for Quintilian informs us that he published Latin translations of Plato and Xenophon.‡ When Molo, the rhetorician of Rhodes, came to Rome, Cicero hastened to study under him. He daily practised declamation, chiefly in Greek, and obtained such readiness in the use of the noblest of all languages, that when he delivered a speech in it before the same Greek rhetorician, upon visiting Rhodes, it is related that the Grecian expressed his sorrow at finding that Rome was now stripping of oratorical fame the country which her arms had in all other respects already subdued. Even after he had distinguished himself at the Bar, he spent some time in Greece, and there attended the Schools of Oratory, again studying under Molo, who had before been his master at Rome. It is well known that, far from being satisfied with his success, which was great, or from deeming, because of it, that he had fallen upon the best style of oratory, his study of the Asian style

* Quint. xi. 3. § 7.
‡ Lib. x. 5. § 2.
† Cic. de Orat. i. 34.

when he visited Greece, induced him materially to alter his own. The severity with which he, at a maturer age, judged some of the most successful passages of his brilliant orations is well known; and all their success, had his judgment been less severe, and his self-complacency greater, might not have perpetuated his name among orators, any more than the memory of all the principal orators of Quintilian's age has been preserved, whose very names would have perished but for his once mentioning them, and one only in particular, Trachallus, eulogized by that great critic, and never more heard of.* Nay, long after his return to Rome, while actually exercising the high office of Prætor, he frequented the school of Gnipho, a celebrated Rhetorician of that day;† and while in full practice at the Bar, he continued the habit of declaiming upon supposed questions, *(theses)* as if he had been a young student. He is also known to have studied delivery under Roscius and Æsopus, two actors,—the former in comedy, the latter in tragedy.

It is further certain that the ancient Orators gave lessons, even the most celebrated of them. Mention has already been made of Molo, Gnipho, and other professors of Rhetoric. But Isocrates, Isæus, and Demosthenes himself, taught their art to those who would excel in forensic pursuits. Isocrates is said to have received twenty pounds from his pupils; but Isæus and Demosthenes, two hundred,—a convincing proof how great a value was set in those times upon the accomplishment of oratory; but a proof also how differ-

* Quint. xii. 5. § 5.

† Sueton. De Ill. Gram. cap. 7.

ently a studious devotion to it was then viewed; for assuredly it would be in the last degree perilous to any modern speaker's success in public, were he to teach rhetoric while he continued to practise it.

II. 5. Nor is it foreign to our present inquiry to remark, that the exquisite taste of the Athenian audience both proved their delight in the pleasures of the Forum, or Ecclesia, so to speak, and shewed how well they were trained to a nice discernment of oratorical merit. It may be remarked generally, that a speaker who thinks to lower his composition in order to accommodate himself to the habits and taste of his audience, when addressing the multitude, will find that he commits a grievous mistake. All the highest powers of eloquence consist in producing passages which may at once affect even the most promiscuous assembly; but even the graces of composition are not thrown away upon such auditors. Clear, strong, terse, yet natural and not strained expressions; happy antitheses; apt comparisons; forms of speech that are natural without being obvious; harmonious periods, yet various, spirited, and never monotonous or too regularly balanced;—these are what will be always sure to captivate every audience, and yet in these mainly consists finished, and elaborate, and felicitous diction. "Mirabile est," says Cicero, "cum plurimum in faciendo intersit inter doctum et rudem, quam non multum differat in judicando."* The best speakers of all times have never failed to find, that they could not speak too

* De Orat. iii. 51.

well and too carefully to a popular assembly; that if they spoke their best, the best they could address to the most learned and critical assembly, they were sure to succeed; although it may be very true that the converse of the proposition is not equally well-founded; for bad diction and false taste will not be so sure to obtain their merited reprobation from a promiscuous auditory. The delight with which certain passages were listened to by the Roman audience, has been recorded by ancient critics and rhetoricians. Two sentences spoken or recorded by Cicero, the one by its fine and dignified composition, the other by its rhythm, are said to have produced an electrical effect; and yet, when we attend to them, we perceive that this could only be in consequence of the very exquisite taste of the audience. The former was his description of Verres: "Stetit soleatus Prætor Populi Romani, cum pallio purpureo, tunicaque talari, mulierculâ nixus, in littore." The other is given by him as spoken by Carbo:* "Patris dictum sapiens, temeritas filii comprobavit." But the nicety of the Attic taste seems to have been still more remarkable. It is related of Theophrastus, who had lived many years at Athens, had acquired great fame in eloquence, and valued himself extremely on the purity of his Attic style, that he was much mortified by an old woman, with whom he was cheapening some wares at a stall, detecting his foreign origin, and addressing him, ὦ ξένε. Nor could she give any other reason for it than a word he had used which seemed rather affectedly Attic.†

* Cic. Orat. 63.

† Both Cicero (Brutus, 46) and Quintilian (viii. 1) mention this anecdote; but the latter alone gives the ground of the old woman's conjecture.

There may be added two other peculiarities to complete the picture of that attention to oratorical composition, and that refinement in the audience which we have been contemplating, and to illustrate the difference in this respect between ancient and modern eloquence. Any merely critical remarks in a modern speech are hardly permitted. It is not a charge which can now-a-days be made against an adversary either at the Bar or in debate, that he has made a bad speech, that his eloquence is defective, that his figures are out of keeping, his tones inharmonious, or his manner awkward. Yet these are topics of ordinary recrimination and abuse between Demosthenes and Æschines. To have argued inconclusively, to counsel badly, to act corruptly, or feebly, or inconsistently, are the charges to which the combatants in the more close and business-like battles of our Senate must confine themselves. With us it is no matter of attack that an adversary's tropes are in bad taste, or his manner inelegant, or his voice unmusical. So we may perceive the exquisite care taken by the ancient orators to strike and to please their audience, in the attention paid by them to the rhythm or numbers of their periods. In the ancient institutes of Rhetoric, that subject forms a separate and important head, which, or even the mention of which, would scarcely be borne among us. It must at the same time be observed, that although we are so suspicious of whatever would give an appearance of theatrical display to the business of debate, our greatest orators nevertheless have excelled by a careful attention to rhythm, and some of the finest passages of modern eloquence owe their unparalleled success unde-

niably to the adoption of those Iambic measures which thrilled and delighted the Roman Forum, and the Dactylus and Pæonicus, which were the luxury of the Attic Ecclesia.* Witness the former in Mr. Erskine's celebrated passage respecting the Indian chief, and the latter in Mr. Grattan's peroration to his speech on Irish independence.†

That the ancients, and particularly the Attic school, were sparing of the more elaborate ornaments of eloquence, figures, is certain; unless indeed we regard as such, enumeration, repetition, antithesis, interrogation, and the other forms of condensed and vigorous expression, which are not to be reckoned tropes at all. But with metaphor, hyperbole, apostrophe, they certainly did not overload their oratory. It is nevertheless quite untrue that Demosthenes has so few as some have represented, although undoubtedly he produces a prodigious effect, enlivens his discourse, awakens and sustains the ready attention, in short, is striking and brilliant, with fewer than would have sufficed to any other man. There are preserved to us three orations supposed to be of Pericles; and Thucydides, who has recorded them, certainly represents himself to have heard generally, the words which he sets down in his history, as well as to have examined the evidence of the facts. The most admired of these speeches is the Ἐπιτάφιος λόγος, the Funeral Oration. Its style is unquestionably chaste and noble; it is of a touching simplicity, and from the judicious choice of the topics, as well as their skilful disposition and treat-

* Examples of this artificial composition occur in every page of the old Orators. See particularly, the famous climax of Demosthenes, in the Oration on the Crown, Appendix, No. V.; and the quotation from the Argument of Cicero *Pro Milone*, Appendix, No. VII.

† Appendix, No. I.

ment, the effect must have been great of such an address: it is of a sustained and perfect dignity; indeed its solemnity seems peculiarly suited to the occasion. But notwithstanding the moving nature of that occasion, and although in the epideictic branch of oratory, more figurative display might have been expected than in the ordinary harangues of the Ecclesia, there can be found hardly any tropes at all in the whole compass of the Speech. Only one passage, properly speaking, can be called figurative,—that beautiful one where he says that illustrious men have the whole earth for their tomb.* It may, however, be remarked, that Aristotle mentions another as having been in the oration,—a comparison of the loss occasioned by war to the act of him who should take the Spring out of the year.† But in Thucydides' version no such passage is to be found.

It is impossible to deny that the ancient Orators fall nearly as far short of the modern in the substance of their orations as they surpass them in their composition. Not only were their views far less enlarged, which was the necessary consequence of their more confined knowledge, but they gave much less information to their audience in point of fact, and they applied themselves less strenuously to argument. The assemblies of modern times are eminently places of business; the hearers are met to consider of certain practical

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* Ἀνδρῶν γὰρ ἐπιφανῶν πᾶσα γῆ τάφος, καὶ οὐ στηλῶν μόνον ἐν τῇ οἰκείᾳ σημαίνει ἐπιγραφή, ἀλλὰ καὶ ἐν τῇ μὴ προσηκούσῃ ἄγραφος μνήμη παρ' ἑκάστῳ τῆς γνώμης μᾶλλον ἢ τοῦ ἔργου ἐνδιαιτᾶται. Thuc. ii. 43.

† Τὴν μεότητα τὴν ἀπολομένην ἐν τῷ πολέμῳ οὕτως ἠφανίσθαι ἐκ τῆς πόλεως, ὥσπερ εἴ τις τὸ ἔαρ ἐκ τοῦ ἐνιαυτοῦ ἐξέλοι.—Arist. Rhet. i. 7. iii. 10. Herodotus (vii. 162) puts this figure in the mouth of Gelon.

questions, and not to have their fancy charmed with choice figures, or their taste gratified with exquisite diction, or their ears tickled with harmonious numbers. They must therefore be convinced; their reason must be addressed by statements which shall prove that the thing propounded is just or expedient, or that it is iniquitous or impolitic. No far-fetched allusions, or vague talk, or pretty conceits, will supply the place of the one thing needful, argument and information. Whatever is beside the question, how gracefully soever it may be said, will only weary the hearer and provoke his impatience; nay, if it be very fine and very far-fetched, will excite his merriment and cover the speaker with ridicule. Ornament of every kind, all manner of embellishment, must be kept within its subordinate bounds, and made subservient merely to the main business. It is certain that no perfection of execution, no beauty of workmanship, can make up for the cardinal defect of the material being out of its place, that is, indifferent to the question; and one of the most exquisitely composed of Cicero's orations, the one for Archias, could clearly never have been delivered in any English Court of Justice, where the party was upon his defence against an attempt to treat him as an Alien; though perhaps some of it might have been urged in favour of a relaxation of the law, after his Alienage had been proved, and the whole of it might have been relished by a meeting assembled to do him honour.* In fact, not above one sixth part of the Speech has any bearing whatever upon the question, which was on the construction of a particular law. It is true that Cicero himself appears to be aware how widely

he was wandering from the question; for he asks leave to dwell upon literary topics as something unusual in the Forum; but still the argument on the case is wanting, and the dissertation on letters is put in its place. So, when he defends Publius Sextius from a charge of riot, grounded on a special law, of the fifty-six pages which compose the oration, not four are at all to the point in dispute.

It is, however, a great mistake to suppose that Cicero is generally vague and declamatory, or even that he is less argumentative than the generality of the ancient orators. His speech for Milo, and all that remains of his speeches against the Agrarian Law, are fully as much so as any of Demosthenes' most celebrated orations. But in all his judicial Speeches there are considerable portions which consist of matters so foreign to the question, or of arguments so puerile, that they could never be addressed to modern courts; and although the same remark cannot be applied so universally to his political Orations, the declamation of which might be used in our days, yet even in these, when he reasons, there are almost always portions which could not be made part of a modern speech intended to be argumentative. Thus, among his judicial speeches, that for Cornelius Balbus is as argumentative as any; yet there is about a third part of it composed of panegyric upon Pompey, and other extraneous topics, and of such reasoning as this—that it was not very likely so eminent and experienced a leader as Pompey should have misinterpreted the footing upon which Gades stood, the whole question being, whether a naturalization law had ever been extended to the Gaditani, in favour of one of

whom Pompey had exercised the powers of that law. But the defence of Milo is not within the scope of this remark. That truly admirable oration is from first to last closely addressed to the point in issue. It is all either argument to prove that from every circumstance in the case the presumption is that Clodius was the aggressor, or invective against Clodius. A topic is indeed handled of extreme delicacy, and full of danger to the cause,—the vast service rendered to the state, and even to the world at large, by Milo, in putting to death the common enemy, the foe to the peace of society. Nor can all the pains taken to shew that Milo had only been enabled to confer this benefit upon mankind, by Clodius making the attack upon him, and that but for this fortunate circumstance he never could have touched him, enable the speaker to escape the conclusion which the audience were sure to draw against the party accused, from such a line of defence. But Cicero probably knew that he addressed judges, not of the Clodian faction, or rather judges among whom the sentiments of the opposite party were prevalent; at any rate, this topic was clearly connected with the question, and though a perilous line of reasoning, it was one which bore immediately upon the subject, and was thus argumentative throughout. There are parts of the speech too, which, for soundness and clearness of reasoning, may challenge a comparison with any piece of argument in the whole compass of ancient and modern oratory.*

It is a common thing with those who, because

* Appendix, No. VII.

Cicero is more ornate, suffers the artifice of his composition to appear more plainly, and indulges more in amplification, imagine that he is less argumentative than the Greek orators, to represent the latter, and especially Demosthenes, as distinguished by great closeness of reasoning. If by this is only meant that he never wanders from the subject, that each remark tells upon the matter in hand, that all his illustrations are brought to bear upon the point, and that he is never found making any step in any direction, which does not advance his main object, and lead towards the conclusion to which he is striving to bring his hearers—the observation is perfectly just; for this is a distinguishing feature in the character of his eloquence. It is not, indeed, his grand excellence, because everything depends upon the manner in which he pursues this course, the course itself being one quite as open to the humblest mediocrity as to the highest genius. But if it is meant to be said that those Attic orators, and especially their great chief, made speeches in which long chains of elaborate reasoning are to be found—nothing can be less like the truth. A variety of topics are handled in succession, all calculated to strike the audience. Passions which predominated in their minds are appealed to—feelings easily excited among them are aroused by skilful allusions—glaring inconsistencies are shewn in the advice given by others—sometimes by exhibiting the repugnance of those counsels among themselves, sometimes by contrasting them with other counsels proceeding from the same quarters. The pernicious tendency of certain measures is displayed by referring, sometimes to the general principles of human action, and the course

which human affairs usually take; more frequently, by a reference to the history of past, and generally of very recent events. Much invective is mixed with these topics, and both the enemy without, and the evil counsellor within the walls, are very unsparingly dealt with. The orator was addressing hearers who were for the most part as intimately acquainted as himself with all the facts of the case, and these lay within a sufficiently narrow compass, being the actual state of public affairs, and the victories or the defeats which had, within the memory of all, attended their arms, or the transactions which had taken place among them in very recent times. No detailed statements were therefore wanted for their information. He was really speaking to them respecting their own affairs, or rather respecting what they had just been doing or witnessing themselves. Hence a very short allusion alone was generally required to raise the idea which he desired to present before his audience. Sometimes a word was enough for his purpose; the naming of a man or a town; the calling to their recollection what had been done by the one, or had happened to the other. The effect produced by such a rapid interchange of ideas and impressions, must have struck every one who has been present at public meetings. He will have remarked that some such apt allusion has a power—produces an electrical effect—not to be reached by any chain of reasoning, however close, and that even the most highly-wrought passages, and the most exquisite composition, fall far short of it in rousing or controlling the minds of a large assembly. Chains of reasoning, examples of fine argumentation, are calculated

to produce their effect upon a far nicer, a more confined, and a more select audience. But such apposite allusions —such appropriate topics—such happy hits, (to use a homely but expressive phrase) have a sure, an irresistible, a magical effect upon a popular assembly. In these the Greek oratory abounds, and above all, its greatest Master abounds in them more than all the lesser rhetoricians. They would have been highly successful without the charms of composition; but he also clothes them in the most choice language, arranges them in the most perfect order, and captivates the ear with a music which is fitted at his will to provoke or to soothe, but ever to charm the sense, even were it possible for it to be addressed apart, without the mind too being moved.

Let any one examine the kind of topics upon which those orators dwell, and he will be convinced that close reasoning was not their object—that they were adapting their discourse to the nature of their audience —and that indeed not a few of their topics were such as they would hardly have thought of using, had they been arguing the matter stringently with an antagonist, "hand to hand, and foot to foot;" or, which is the same thing, preparing a demonstration to meet the eye of an unexcited reader. It is certain that some of Demosthenes' chief topics are exactly those which he would use to convince the calm reason of the most undisturbed listener or reader—such as the dangers of inaction—the formidable, because able and venturous, enemy they had to contend with—the certainty of the peril which is met by procrastination becoming greater after the unprofitable delay. These, however, are the

most obvious considerations, and on these he dwells the less because of their being so obvious. But the more striking allusions and illustrations by which he enforces them, are not always such as would bear close examination if considered as arguments, although they are always such as must, in the popular assembly to which he addressed them, have wrought a wondrous effect. Let us take a few instances.

It is a frequent topic with the Orator, that the advisers of peace and quiet while the country is insulted and injured by the common enemy, can never themselves be at rest, though no one is doing them any wrong—"οὐδενὸς ἀδικοῦντος"—and on one occasion he makes a special application of this topic to Aristodemus, one of the leaders of the Macedonian party. Now, though nothing could be better calculated to succeed as a taunt or personal attack, something (it cannot surely be called some argument) *ad hominem*—it is as certain that no reasoning is involved in such an appeal, and that it does not go beyond a sneer or fling, without any tendency to advance the argument. For surely Aristodemus and others might be quite consistent in pursuing the objects of their personal ambition, and yet conscientiously recommending a pacific policy; nay, in dividing, and even vexing, the public councils with their advice to hold by that peaceful course. The total difference of the two cases—those of the individuals and of the states—is too manifest to escape any calm hearer or sober-minded reader. Again, we have the fate of towns and individuals who had been seduced by Philip and betrayed to him, painted in many passages, and in some of the most striking of all, as a warn-

ing to Athens, *e. g.* in the Third Philippic, δουλευούσί γε μωστιγούμενοι καὶ στρεβλούμενοι· and in the Chersonese Oration, πάντων κάκιστ' ἀπολώλασιν. But to this the answer was quite obvious,—that they who recommended peace did it not only without the least design of betraying the city into Philip's hands, but with the very view of saving it from him. So, when he argues, in the First Philippic, that a good statesman should be always in advance of events, in the same manner that a good general always marches at the head of his troops and in front of them, the fact and reason both alike fail; for neither does a commander always march before his men, nor, when he does, is it in the least degree that he may be prepared to meet and grapple with those men, which is the only reason for a statesman being in advance of events. The comparison which follows, of the Athenian tactics with the Barbarian's way of boxing, that is, by preparing to ward off the blow from any quarter after it has fallen there, is truly close and perfect; but it is rather used as an illustration than an argument; and as an illustration of a sarcastic kind it is consummate. In like manner, we may perhaps regard the famous passage in the same Philippic, about Philip's death, as a mere taunt or invective against the Athenians for their being so active in their inquiries after the news about their enemy, and so slow to take measures for opposing him—certainly as an argument nothing can be less effective.

But, passing from the rest of the speech, which is almost wholly made up of explanations of the plan of operations proposed by the orator, let us come to the

Second Philippic, so greatly admired by Philip himself, and which, he said, would have convinced him both that war should have been declared against himself, and that Demosthenes should have been made commander-in-chief. He begins by saying that Philip had preferred on all occasions the interests of Thebes to those of Athens, because he knew that the Athenians would always, when it came to the push, declare against his aggressions and in behalf of justice and right; and he maintains that their former glorious history proved him to have formed an accurate estimate of their future conduct. He makes one short allusion to Philip's conduct towards Messene and Argos, in order to shew that it was from policy, and not from justice, that he so preferred the Thebans; and that Athens is the great object of his constant enmity. He then recites a speech which he says he made to the Messenians and Argives, warning them against trusting Philip; and here occurs the beautiful passage about mistrust of tyrants being the true bulwark of freedom. He now proposes that they of the Macedonian party should be impeached who had brought about the peace; and he vows solemnly that he gives this advice, not with the desire of exposing himself to recrimination, by attacking these men, nor yet with the design of enabling them to receive new largesses from Philip, nor merely for the sake of declamatory invectives, but because he apprehends the greatest dangers one day from the enemy; and that then the rage of the people will burst forth, and will fall, not upon the guilty, but upon the innocent—on those whose counsels have been the soundest. The orator concludes with applying this charge parti-

cularly to one individual, apparently Æschines. Now, though nothing can be more artfully calculated to gain the favour of the Athenians, and also to warn them against Philip's designs, it must at once be admitted, that to describe this celebrated oration as a piece of close reasoning, is an abuse of terms. Eloquent, spirited, effective to its purpose, it unquestionably is. Had argument been required to effect that purpose, there would have been cogent reasoning no doubt used; but the effect is produced by plain statements, or powerful allusions to well-known facts; and of ratiocination, or anything like it, there is none, if we except the answer to the anticipated explanation of Philip's motives by his partisans, an answer which consists in referring shortly to his conduct towards Messene and Argos.

The Third Philippic is certainly a very fine oration—by some preferred to all the minor ones. But as far as elaborate and close reasoning goes, it is of the same description with the First and the Second. Part of it consists in exposing the errors committed by the Athenians, to which the ill success of the public measures is ascribed; the rest is a description of Philip's conduct, for the purpose of shewing that he had left them no longer the choice of war against him, or peace with him. In describing Philip's conduct, by far the most remarkable passage is one which, as a serious argument, never could have been urged to convince a mind undisturbed by the passions incident to great meetings, though in such a place it was calculated to produce a powerful effect. When Athens or Sparta, he says, injured the other Greek states, at least the wrong-

doers were of their own family, and might be forgiven, as we bear with indiscretions in our own children which we never could tolerate in a slave or in an alien to our blood. But Philip is not only not a Greek—he is not even of illustrious barbaric extraction—he is a vile Macedonian—of a country that never produced so much as a good slave; and then he proceeds to recount the instances of his offensive interference in the affairs of Greece. He then inveighs against the treachery and corruptions of the Macedonian party, and holds up the example of the Oreitans and Eretrians, the Olynthians and Phocians, and introduces that famous passage, so justly admired, painting the sufferings that the Macedonian party among those nations brought upon their country. But in this place the subject is not treated with the force of reasoning displayed on the same topic in the Chersonese Oration, where the argument is this—that even at Olynthus, in Thessaly, or at Thebes, no one durst have held the language of the Macedonian party at Athens, before Philip had done anything to gain over the state to his side—before he had delivered Potidæa to Olynthus, restored the Amphictyonic rights to Thessaly, and reconquered Bœotia for Thebes. The same argument is used in nearly the same words in the Fourth Philippic, which is made up of repetitions from the other minor orations, and especially from that upon the Chersonese, certainly the most argumentative of the whole, and, as it seems, the finest in all respects.

If, again, we examine the four lesser orations not usually termed Philippics, we shall find them still less argumentative in their texture than the Philippics

which we have just gone through. Thus, the well-known and much admired speech for Megalopolis is a calm and judicious statement of the sound principle of foreign policy, on which the modern doctrine of the balance of power rests—that the only point for a nation's consideration is, whether any given course of conduct will tend to help or to prevent a dangerous neighbour's aggrandizement; and that no former conduct of any state should operate as a reason for or against helping it in its struggle with a common and formidable enemy. This oration has no figures, nor any impassioned bursts, or other striking passages; and there is no reasoning in it, except perhaps where the orator tries to reconcile the conduct which he recommends, of helping the Arcadians against Sparta, with the aid formerly given to Sparta herself, by shewing that the former, like the present policy, was governed by the principle of protecting the weak against oppression.

As for the Great Speech itself, the whole consists rather of explanations, narrations of important successes arising from his counsels, remarks upon the duty and the conduct of honest statesmen as contrasted with evil advisers (a very favourite topic in all the orations), and bitter invective against Æschines. The question mainly at issue is notwithstanding scarcely touched upon—namely, the right of one who had not passed his accounts to have the honours of the Crown. But this, the main point, is purposely avoided, because he was quite unable to deal with it, the fact and the law being equally clear against him. He therefore assumes that his whole public life is put in issue, and applies him-

self to that supposed issue alone. But the most celebrated passage of the whole has sometimes been given as an example of close reasoning, as shewing that, even in his most impassioned and figurative passages, the orator never loses sight for a moment of the point he is labouring, that every appeal he makes, every illustration he employs, in short, every word he utters, furthers the attainment of the object in view.

This truly magnificent passage can never be too often referred to, or its merits too highly extolled. That it is a piece of close and sustained argumentation, can assuredly not be affirmed with equal accuracy. He is maintaining that his counsels were wise, though the policy which they prescribed led to defeat; and he begins with the well-known simile of the shipwreck, for which he says the captain of the vessel is not answerable, if he has taken all fit precautions. But it is singular that he should make the captain say, he did not govern (ἐκυβέρνων) the ship, and compare this with what he himself had certainly a far better right to say, that he did not command the army (ἐστρατήγουν); the analogy of the two positions consisting not in this, wherein it wholly fails, but in this, that both by sea and land, fortune is superior to all human efforts, and often sets all human precautions at defiance. It may also be observed, that were the comparison ever so apt, it assumes, like all such *cases in point*, the thing to be proved—namely, that all due precaution *had* been in fact taken, upon which the whole question turned. Another fine part of this passage is the invective against Æschines for never appearing but in times of distress, and the noted comparison of τὰ ῥήγματα καὶ τὰ σπάσματα.

But this in no way advances Demosthenes' own defence, nor indeed at all bears upon this part of his conduct. Then follows a most magnificent description of the courage which consists in risking all extremities rather than embrace an easy and tranquil slavery, illustrated with moving and spirit-stirring appeals to the ancient deeds of the Athenians. But this, in point of argument, goes for nothing; the adversary being quite prepared to admit it all, and still to contend that Demosthenes had pursued a policy leading to the subjugation of the state, and to deny of course that *they* would ever have recommended submission or dishonour. This, therefore, is matter common to both parties, and could not turn the scale in favour of either. Last of all, and to wind up the passage, comes the famous oath, and it is certain that in the midst of his vehement passion, he comes at once upon the honours awarded to the warriors slain in battle, and makes an application of the conduct held by the state in their case to the subject in question, by reminding his antagonist that those who failed were buried with funeral honours as well as those who conquered. Now, every way splendid and prodigious as this famous burst of eloquence is, in point of argument, and if viewed as a piece of reasoning, it is positively nothing. For it would then stand thus, and this would be the argument—"My counsels led to your defeat at Chæronea; but because you won four or five great victories by following other counsels, or, which is the same thing, these counsels in other circumstances, therefore I was justified in the disastrous advice I gave you."—Or thus, —"You gained great victories at Marathon, Salamis,

Platææ, and Artemisium,* therefore you were justified in fighting at Chæronea, where you were defeated." Then as to the funeral honours, the argument would stand thus,—"The *victorious* soldiers who were slain in the *successful* battles of former times, were buried with public honours—therefore the state rewards those who fall in *defeat;* and consequently the counsels are not to be blamed which are bold, although they lead to disaster." It is quite clear that close argument is not the peculiar merit of the passage, and that it cannot be regarded as a piece of reasoning at all. As a burst of most lofty and impassioned eloquence, it is beyond all praise, and the panegyrics of twenty-four centuries have left it inadequately marvelled at and admired.

It was necessary to set right by some detail the matter referred to in the erroneous view of those who, mistaking vehemence, fulness of matter, and constant regard to the object in view, for sustained reasoning and close argument, have spoken of Demosthenes' Orations as they might of strict moral demonstrations, or chains of ratiocination—like the arguments maintained at the Bar upon legal points, or upon dry questions of fact—or like those inimitable specimens of pure logical deduction, the judgments, and yet more the speeches, of Sir William Grant. Had they been of this description, they would have been far less suited to the Athenian assembly before which they were delivered. Nevertheless, it is certain that far more argumentative

* There were two battles fought at Artemisium, both successful, though one much more clearly so than the other.

speeches are well adapted to the British Parliament, and that the closest texture of reasoning is quite consistent with the loftiest legitimate flights of eloquence. Demosthenes could have addressed such an audience with all his fire and all his topics, and have reasoned as closely as his warmest eulogists have supposed him to have done at Athens. But such a display of his powers was not suited to that Athenian audience. What was wanted to move, to rouse, and also to please them, was a copious stream of plain intelligible observations upon their interests—appeals to their feelings —recollections of their past, and especially their recent history—expositions of the evils to be apprehended from inaction and impolicy of any sort—vindications of the orator's own conduct, upon grounds simple and uncontested—contrasts to shew the inconsistency of those who differed from him, or refused to follow his advice —invectives, galling and unmeasured, against all his adversaries abroad and at home. By urging these topics in rapid succession, in the purest language, with a harmony never broken, save where the sense and the ear required a discord, he could move and could master the minds of the people, make their enemy quake upon his barbaric throne, and please the exquisite taste of the "fierce democratie" whom he was chiding and controlling.

Such was the first of Orators. At the head of all the mighty masters of speech, the adoration of ages has consecrated his place; and the loss of the noble instrument with which he forged and launched his thunders, is sure to maintain it unapproachable for ever. If in such varied and perfect excellences, it is required that

the most prominent shall be selected, then doubtless is the palm due to that entire and uninterrupted devotion which throws his whole soul into his subject, and will not ever—no, not for an instant—suffer a rival idea to cross its resistless course, without being swiftly swept away, and driven out of sight, as the most rapid engine annihilates or shoots off whatever approaches it, with a velocity that defies the eye. So, too, there is no coming back on the same ground, any more than any lingering over it. Why should he come back over a territory that he has already laid waste—where the consuming fire has left not a blade of grass? All is done at once; but the blow is as effectual as it is single, and leaves not anything to do. There is nothing superfluous—nothing for mere speaking's sake—no topic that can be spared by the exigency of the business in hand; so, too, there seems none that can be added—for every thing is there and in its place. So, in the diction, there is not a word that could be added without weakening, or taken away without marring, or altered without changing its nature, and impairing the character of the whole exquisite texture, the work of a consummate art that never for a moment appears, nor ever suffers the mind to wander from the subject and fix itself on the speaker. All is at each instant moving forward, regardless of every obstacle. The mighty flood of speech rolls on in a channel ever full, but which never overflows. Whether it rushes in a torrent of allusions,* or moves along in a majestic exposition of enlarged principles†—descends

* Appendix, No. II.

† Ibid. No. III.

hoarse and headlong in overwhelming invective*—or glides melodious in narrative and description†—or spreads itself out shining in illustration‡—its course is ever onward and ever entire;—never scattered—never stagnant—never sluggish. At each point manifest progress has been made, and with all that art can do to charm, to strike, and to please. No sacrifice, even the smallest, is ever made to effect—nor can the hearer ever stop for an instant to contemplate or to admire, or throw away a thought upon the great artist, till all is over, and the pause gives time to recover his breath. This is the effect, and the proper effect, of Eloquence—it is not the effect of argument. The two may be well combined, but they differ specifically from each other.

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* Appendix, No. IV.
† Ibid. No. V.
‡ Ibid. No. VI.

APPENDIX.

APPENDIX.

No. I.

EXTRACT FROM LORD ERSKINE'S SPEECH ON THE TRIAL OF JOHN STOCKDALE.

"I have not been considering it through the cold medium of books, but have been speaking of man and his nature, and of human dominion, from what I have seen of them myself amongst reluctant nations submitting to our authority. I know what they feel, and how such feelings can alone be repressed. I have heard them in my youth from a naked savage, in the indignant character of a prince surrounded by his subjects, addressing the Governor of a British colony, holding a bundle of sticks in his hand, as the notes of his unlettered eloquence: 'Who is it?' said the jealous ruler over the desert, encroached upon by the restless foot of English adventure—'Who is it that causes this river to rise in the high mountains, and to empty itself into the ocean? Who is it that causes to blow the loud winds of winter, and that calms them again in the summer? Who is it that rears up the shade of those lofty forests, and blasts them with the quick lightning at his pleasure? The same Being who gave to you a country on the other side of the waters, and gave ours to us; and by this title we will defend it!' said the warrior, throwing down his tomahawk upon the ground, and raising the war-sound of his nation. These are the feelings of subjugated man all round the globe; and depend upon it, nothing but fear will control where it is vain to look for affection."—*Erskine's Speeches*, vol. ii. p. 263.

PERORATION OF MR. GRATTAN'S SPEECH ON THE DECLARATION OF IRISH RIGHTS.

"Do not suffer the arrogance of England to imagine a surviving hope in the fears of Ireland; do not send the people to their own resolves for liberty, passing by the tribunals of justice and the high court of Parliament; neither imagine that, by any formation of apology, you can palliate such a commission to your hearts, still less to your children, who will sting you with their curses in your grave, for having interposed between them and their Maker, robbing them of an immense occasion, and losing an opportunity which you did not create, and can never restore.

"Hereafter, when these things shall be history, your age of thraldom and poverty, your sudden resurrection, commercial redress, and miraculous armament, shall the historian stop at liberty, and observe—that here the principal men among us fell into mimic trances of gratitude—they were awed by a weak ministry, and bribed by an empty treasury—and when liberty was within their grasp, and the temple opened her folding doors, and the arms of the people clanged, and the zeal of the nation urged and encouraged them on, that they fell down, and were prostituted at the threshold.

"I might, as a constituent, come to your bar and demand my liberty. I do call upon you, by the laws of the land and their violation, by the instruction of eighteen counties, by the arms, inspiration, and providence of the present moment, tell us the rule by which we shall go—assert the law of Ireland—declare the liberty of the land.

"I will not be answered by a public lie in the shape of an amendment; neither, speaking for the subject's freedom, am I to hear of faction. I wish for nothing but to breathe in this our island, in common with my fellow-subjects, the air of liberty. I have no ambition, unless it be the ambition to break your chain and contemplate your glory. I never will be satisfied so long as the meanest cottager in Ireland has a link of the British chain clanking to his rags; he may be

naked, he shall not be in iron; and I do see the time is at hand, the spirit is gone forth, the declaration is planted; and though great men should apostatize, yet the cause will live; and though the public speaker should die, yet the immortal fire shall outlast the organ which conveyed it, and the breath of liberty, like the word of the holy man, will not die with the prophet, but survive him."—*Grattan's Speeches*, vol. i. pp. 52, 53.

No. II.

Ἡμεῖς οὔτε χρήματα εἰσφέρειν βουλόμεθα, οὔτε αὐτοὶ στρατεύεσθαι τολμῶμεν, οὔτε τῶν κοινῶν ἀπέχεσθαι δυνάμεθα, οὔτε τὰς συντάξεις Διοπείθει δίδομεν, οὔθ', ὅσ' ἂν αὐτὸς αὑτῷ πορίσηται, ἐπαινοῦμεν, ἀλλὰ βασκαίνομεν καὶ σκοποῦμεν, πόθεν καὶ τί μέλλει ποιεῖν, καὶ πάντα τὰ τοιαῦτα, οὐτ' ἐπειδήπερ οὕτως ἔχομεν, τὰ ἡμέτερ' αὐτῶν πράττειν ἐθέλομεν, ἀλλ' ἐν μὲν τοῖς λόγοις, τοὺς τῆς πόλεως λέγοντας ἄξια ἐπαινοῦμεν, ἐν δὲ τοῖς ἔργοις τοῖς ἐναντιουμένοις τούτοις συναγωνιζόμεθα. And then immediately afterwards, the repetition, τί οὖν χρὴ λέγειν; εἰ γὰρ μήτε εἰσοίσετε, μήτε αὐτοὶ στρατεύσεσθε, μήτε τῶν κοινῶν ἀφέξεσθε, μήτε τὰς συντάξεις Διοπείθει δώσετε, μήτε, ὅσ' ἂν αὐτὸς αὑτῷ πορίσηται, ἐάσετε, μήτε τὰ ὑμέτερ' αὐτῶν πράττειν ἐθελήσετε, οὐκ ἔχω τί λέγω. De Cherson. Orat. Græc. i. 95.

This is translated in the version of the Oration which follows.

Καλήν γ' οἱ πολλοὶ νῦν ἀπειλήφασιν Ὠρειτῶν χάριν, ὅτι τοῖς Φιλίππου φίλοις ἐπέτρεψαν αὐτούς, τὸν δ' Εὐφραῖον ἐώθουν· καλήν γ' ὁ δῆμος ὁ τῶν Ἐρετριέων, ὅτι τοὺς ὑμετέρους μὲν πρέσβεις ἀπήλασε, Κλειτάρχῳ δ' ἐνέδωκεν αὐτόν· δουλεύουσί γε μαστιγούμενοι καὶ στρεβλούμενοι· καλῶς Ὀλυνθίων ἐφείσατο τῶν τὸν μὲν Λασθένην ἵππαρχον χειροτονησάντων, τὸν δὲ Ἀπολλωνίδην ἐκβαλόντων. Phil. III. Orat. Græc. i. 128.

"A noble* return have the Oreitans met with, for betaking themselves to Philip's creatures, and abandoning Euphræus! A noble treatment have the Eretrians received for dismissing your ambassadors and surrendering themselves to Clitarchus—they are now enslaved, and tortured, and scourged!† Nobly have the Olynthians fared for giving the command of their horse to Lasthenes, while they banished Apollonides!"

No. III.

The Oration for the Megalopolitans is one instance of this. See for another example the following passage in the Chersonese Oration :—

"Οστις μὲν γὰρ, ὦ Ἄνδρες Ἀθηναῖοι, παριδὼν ἃ συνοίσει τῇ πόλει, κρίνει, δημεύει, δίδωσι, κατηγορεῖ, αὐδεμιᾷ ταῦτ' ἀνδρίᾳ ποιεῖ, ἀλλ' ἔχων ἐνέχυρον τῆς αὐτοῦ σωτηρίας τὸ πρὸς χάριν ὑμῖν λέγειν καὶ πολιτεύεσθαι ἀσφαλῶς θρασύς ἐστιν· ὅστις δ' ὑπὲρ τοῦ βελτίστου πολλὰ τοῖς ὑμετέροις ἐναντιοῦται βουλήμασι, καὶ μηδὲν λέγει πρὸς χάριν, ἀλλὰ τὸ βέλτιστον ἀεὶ, καὶ τὴν τοιαύτην πολιτείαν προαιρεῖται, ἐν ᾗ πλείονων ἡ τύχη κυρία γίνεται ἢ οἱ λογισμοὶ, τούτων δ' ἀμφοτέρων ὑπεύθυνον ὑμῖν ἑαυτὸν παρέχει—οὗτός ἐστ' ἀνδρεῖος, καὶ χρήσιμός γε πολίτης ὁ τοιοῦτός ἐστιν. Orat. Græc. i. 106.

This is translated in the version of the Speech subjoined.

Ὁ γὰρ σύμβουλος καὶ ὁ συκοφάντης, ἐν οὐδενὶ τῶν ἄλλων οὐδὲν ἐοικότες, ἐν τούτῳ πλεῖστον ἀλλήλων διαφέρουσιν· ὁ μὲν γὰρ πρὸ τῶν πραγμάτων γνώμην ἀποφαίνεται, καὶ δίδωσιν αὑτὸν ὑπεύθυνον τοῖς πεισθεῖσι, τῇ τύχῃ, τοῖς καιροῖς, τῷ βουλομένῳ·

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* The literal translation "fine" or "pretty" expresses the sense completely, but it is too colloquial.

† There is no giving the force of the Greek here—*δουλεύουσί γε μαστιγούμενοι καὶ στρεβλούμενοι.*—Orat. Græc. i. 128.

ὁ δὲ σιγήσας, ἡνίκ' ἔδει λέγειν, ἄν τι δύσκολον συμβῇ, τοῦτο βασκαίνει· De Corona. Orat. Græc. i. 291.

A statesman and a partisan, in no other respect resembling each other, differ most of all in this, that the one gives his counsels before the event, and makes himself accountable for his followers, for fortune, for emergencies, for those who sit in judgment on his conduct; while the other, holding his peace when he ought to speak out, the instant that anything goes wrong, cries out his disapproval."

No. IV.

Οὗτοι πάντες εἰσὶν, ἄνδρες Ἀθηναῖοι, τῶν αὐτῶν βουλευμάτων ἐν ταῖς αὑτῶν πατρίσιν, ὥνπερ οὗτοι παὶ ὑμῖν, ἄνθρωποι μιαροὶ καὶ κόλακες καὶ ἀλάστορες, ἠκρωτηριασμένοι τὰς ἑαυτῶν ἕκαστοι πατρίδας, τὴν ἐλευθερίαν προπεπωκότες, πρότερον μὲν Φιλίππῳ, νῦν δὲ Ἀλεξάνδρῳ, τῇ γαστρὶ μετροῦντες, καὶ τοῖς αἰσχίστοις τὴν εὐδαιμονίαν, τὴν δ' ἐλευθερίαν καὶ τὸ μηδένα ἔχειν δεσπότην αὐτῶν, ἃ τοῖς προτέροις Ἕλλησιν ὅροι τῶν ἀγαθῶν ἦσαν καὶ κανόνες, ἀνατετροφότες. De Corona. Orat. Græc. i. 324.

"Those men, Athenians, are all in their own provinces like our adversaries here among you, base and fawning creatures, wretches who have mutilated the glory each of his own country, and toasted away their liberties, first to Philip, then to Alexander; who place their supreme enjoyment in gluttony and debauchery, but hold cheap those rights of freemen, and that independence of any master, which the Greeks of former days regarded as the test and the summit of all felicity."

Ἐδίδασκες γράμματα, ἐγὼ δ' ἐφοίτων· ἐτέλεις, ἐγὼ δ' ἐτελούμην· ἐχόρευες, ἐγὼ δ' ἐχορήγουν· ἐγραμμάτευες, ἐγὼ δ' ἐκκλησίαζον· ἐτριταγωνίστεις, ἐγὼ δ' ἐθεώρουν· ἐξέπιπτες, ἐγὼ δ' ἐσύριττον· ὑπὲρ τῶν ἐχθρῶν πεπολίτευσαι πάντα, ἐγὼ δὲ ὑπὲρ τῆς πατρίδος· ἐῶ τἄλλα, ἀλλὰ νυνὶ τήμερον ἐγὼ μὲν ὑπὲρ τοῦ

στεφανωθῆναι δοκιμάζομαι, τὸ δὲ μηδοτιοῦν ἀδικεῖν, ἀνωμολόγημαι· σοὶ δὲ συκοφάντῃ μὲν εἶναι δοκεῖν ὑπάρχει, κινδυνεύεις δὲ, εἴτ' ἔτι δεῖ σε τοῦτο ποιεῖν, εἴτ' ἤδη πεπαῦσθαι, μὴ μεταλαβόντα τὸ πέμπτον μέρος τῶν ψήφων. De Corona. Orat. Græc. i. 315.

"You were an usher, I was a scholar; you were an initiator, I was initiated; you danced at the games, I presided over them; you were a clerk of court, I an advocate; you were a third-rate actor, I a spectator; you fell down on the stage, I hissed you; your counsels were always in the enemy's favour, mine always in the country's; and to pass over every thing else, now, on this day, the question is of crowning me, while nothing whatever is alleged against my integrity, while it is your lot to be received as a calumniator, and you are even in jeopardy of being put to silence by failing to obtain a fifth of the votes."

Εἶτά μ' ἐρωτᾷς, ἀντὶ ποίας ἀρετῆς ἀξιῶ τιμᾶσθαι; ἐγὼ δή σοι λέγω, ὅτι, τῶν πολιτευομένων παρὰ τοῖς Ἕλλησι διαφθαρέντων ἁπάντων, ἀρξαμένων ἀπὸ σοῦ, πρότερον μὲν ὑπὸ Φιλίππου, νῦν δ' ὑπ' Ἀλεξάνδρου, ἐμὲ οὔτε καιρὸς, οὐτε φιλανθρωπία λόγων, οὔτ' ἐπαγγελιῶν μέγεθος, οὔτ' ἐλπὶς, οὔτε φόβος, οὔτε χάρις, οὔτ' ἄλλο οὐδὲν ἐπῆρεν οὐδὲ προηγάγετο, ὧν ἔκρινα δικαίων καὶ συμφερόντων τῇ πατρίδι, οὐδὲν προδοῦναι· οὐδ' ὅσα συμβεβούλευκα πώποτε τουτοισὶν, ὁμοίως ὑμῖν, ὥσπερ ἂν εἰ ἐν τρυτάνῃ, ῥέπων ἐπὶ τὸ λῆμμα, συμβεβούλευκα· ἀλλ' ἀπ' ὀρθῆς, καὶ δικαίας, καὶ ἀδιαφθόρου τῆς ψυχῆς, τὰ πάντα μοι πέπρακται· καὶ μεγίστων δὴ πραγμάτων τῶν κατ' ἐμαυτὸν ἀνθρώπων προστὰς, πάντα ταῦτα ὑγιῶς, καὶ δικαίως, καὶ ἁπλῶς πεπολίτευμαι. De Corona. Orat. Græc. i. 325.

"You ask, Æschines, what is my title to honour? I will tell you;—it is, that while the politicians of Greece, beginning with yourself, having all been corrupted, first by Philip and then by Alexander, neither opportunity, nor fine speeches, nor lavish promises, nor hopes, nor fears, nor favours, nor any thing else, ever seduced or compelled me to betray what I deemed the rights and interests of my country. Never did I, like you and such as you, incline my counsels, as if weighed in a balance, towards the side which paid the best; but my

whole actions were governed by the principles of right, and of justice, and an incorruptible soul; and having borne the most forward part in the conduct of the greatest affairs, my policy was ever sound, and just, and sincere."

No. V.

Ἑσπέρα μὲν γὰρ ἦν· ἦκε δ' ἀγγέλλων τὶς ὡς τοὺς πρυτάνεις ὡς Ἐλάτεια κατείληπται· Καὶ μετὰ ταῦτα οἱ μὲν εὐθὺς ἐξαναστάντες μεταξὺ δειπνοῦντες τούς τ' ἐκ τῶν σκηνῶν τῶν κατὰ τὴν ἀγορὰν ἐξεῖργον, καὶ τὰ γέρρα ἐνεπίμπρασαν· οἱ δὲ τοὺς στρατηγοὺς μετέπεμποντο, καὶ τὸν σαλπιγκτὴν ἐκάλουν· καὶ θορύβου πλήρης ἦν ἡ πόλις· τῇ δ' ὑστεραίᾳ ἅμα τῇ ἡμέρᾳ, οἱ μὲν πρυτάνεις τὴν βουλὴν ἐκάλουν εἰς τὸ βουλευτήριον, ὑμεῖς δ' ὡς τὴν ἐκκλησίαν ἐπορεύεσθε· καὶ πρὶν ἐκείνην χρηματίσαι καὶ προβουλεῦσαι, πᾶς ὁ δῆμος ἄνω καθῆτο· καὶ μετὰ ταῦτα κ. τ. λ. De Corona. Orat. Græc. i. 284.

"It was evening. A messenger came to acquaint the Prytanes that Elatea was taken; whereupon, some of them, instantly starting from the table at which they were sitting, cleared the booths in the Forum, and set fire to their wicker coverings; others summoned the commanding officers, and ordered the alarum to be sounded. The city was filled with consternation. When the next day broke, the Prytanes convoked the Senate in the Senate-house; you repaired to your own assembly; and before they could adopt any measure, or even enter upon their deliberations, the whole people had seated themselves upon the steps. And now" &c.

Συνεπαινεσάντων δὲ πάντων, καὶ οὐδενὸς εἰπόντος ἐναντίον οὐδὲν, οὐκ εἶπον μὲν ταῦτα, οὐκ ἔγραψα δέ· οὐδ' ἔγραψα μέν, οὐκ ἐπρέσβευσα δέ· οὐδ' ἐπρέσβευσα μὲν, οὐκ ἔπεισα δὲ Θηβαίους· ἀλλ' ἀπὸ τῆς ἀρχῆς διὰ πάντων ἄχρι τῆς τελευτῆς διεξῆλθον, καὶ ἔδωκα ἐμαυτὸν ὑμῖν ἁπλῶς εἰς τοὺς περιεστηκότας τῇ πόλει κινδύνους. De Corona. Orat. Græc. i. 288.

The diction, the exquisite composition of this, cannot be in any, even the least degree, preserved in our language, or indeed in any but the Greek.

Ἑώρων δ' αὐτὸν τὸν Φίλιππον, πρὸς ὃν ἦν ὑμῖν ὁ ἀγὼν, ὑπὲρ ἀρχῆς καὶ δυναστείας τὸν ὀφθαλμὸν ἐκκεκομμένον, τὴν κλεῖν κατεαγότα, τὴν χεῖρα, τὸ σκέλος πεπηρωμένον, πᾶν ὅ τι ἂν βουληθείη μέρος ἡ τύχη τοῦ σώματος παρελέσθαι, τοῦτο ῥᾳδίως καὶ ἑτοίμως προϊέμενον, ὥστε τῷ λοιπῷ μετὰ τιμῆς καὶ δόξης ζῆν· De Corona. Orat. Græc. i. 247.

"I saw this same Philip, with whom your conflict lay, content to lose an eye, to have his shoulder broken, his hand and his leg mutilated, all for the sake of power and dominion, and abandoning to fortune whatever part of him she chose to take, readily and without a murmur, so as what remained should survive to honour and glory."*

* Οὐ γὰρ λίθοις ἐτείχισα τὴν πόλιν, οὐδὲ πλίνθοις ἐγὼ, οὐδ' ἐπὶ τούτοις μέγιστον τῶν ἐμαυτοῦ φρονῶ· ἀλλ' ἐὰν τὸν ἐμὸν τειχισμὸν βούλει δικαίως σκοπεῖν, εὑρήσεις ὅπλα, καὶ πόλεις, καὶ τόπους, καὶ λιμένας, καὶ ναῦς καὶ πολλοὺς ἵππους, καὶ τοὺς ὑπὲρ τούτων ἀμυνουμένους. Ταῦτα προὐβαλόμην ἐγὼ πρὸ τῆς Ἀττικῆς, ὅσον ἦν ἀνθρωπίνῳ λογισμῷ δυνατὸν, καὶ τούτοις ἐτείχισα τὴν χώραν, οὐχὶ τὸν κύκλον μόνον τοῦ Πειραιῶς οὐδὲ τοῦ ἄστεος. De Corona. Orat. Græc. i. 325.

"But the fortifications at which you mock, and the repairs I counted as deserving the favour and the applause of the people—Why not? Yet I certainly place them far below my other claims to public gratitude. For I have not fortified Athens with stone walls or with tiled roofs; no, not I—neither do I plume myself much upon such works as these.—But would you justly estimate my outworks, you will see armaments, and cities, and settlements, and harbours, and ships, and cavalry, and armies raised to defend us.—These are the

* This was the inscription most appropriately placed under Nelson's bust by the Rev. G. A. Browne, Fellow of Trinity College, Cambridge; and a happier quotation was perhaps never made.

defences that I have drawn round Attica, as far as human prudence could defend her; and with such as these I fortified the country at large, not the arsenal only or the citadel. Nor was it I that yielded to Philip's policy and his arms; very far from it.—It was your captains and your allies through whom his fortune triumphed. What are the proofs of it? They are manifest and plain.

Εἰπέ μοι, τί δή, γιγνώσκων ἀκριβῶς, Ἀριστόδημε, (οὐδεὶς γὰρ τὰ τοιαῦτ' ἀγνοεῖ,) τὸν μὲν τῶν ἰδιωτῶν βίον ἀσφαλῆ, καὶ ἀπράγμονα, καὶ ἀκίνδυνον ὄντα, τὸν δὲ τῶν πολιτευομένων φιλαίτιον, καὶ σφαλερὸν, καὶ καθ' ἑκάστην ἡμέραν ἀγώνων, καὶ κακῶν μεστὸν, οὐ τὸν ἡσύχιον καὶ ἀπράγμονα, ἀλλὰ τὸν ἐν τοῖς κινδύνοις αἱρῇ; Phil. IV. Orat. Græc. i. 150.

"Say then, Aristodemus, how comes it to pass that you, well knowing,—what indeed no one can doubt,—that private life is smooth, and peaceful, and secure, but the life of the statesman turbulent, and slippery, and checquered with daily contentions and miseries,—you should not prefer the tranquil and quiet lot, but that which is cast in the midst of perils?"

No. VI.

Οἰκοδομήματα μέν γε καὶ κόσμον τῆς πόλεως, καὶ ἱερῶν, καὶ λιμένων, κ. λ. τ. De Ordin. Rep. Orat. Græc. i. 174.

See, too, the different instances of figures of comparison cited in the Dissertation, as well as many others, *e. g.* the following:—

Νῦν ἡμῖν λέγεις ὑπὲρ τῶν παρεληλυθότων; ὥσπερ ἂν εἴ τις ἰατρὸς, ἀσθενοῦσι μὲν τοῖς κάμνουσιν ἐσιὼν, μὴ λέγοι μηδὲ δεικνύοι δὶ ὧν ἀποφεύξωνται τὴν νόσον· ἐπειδὴ δὲ τελευτήσειέ τις αὐτῶν, καὶ τὰ νομιζόμενα αὐτῷ φέροιτο, ἀκολουθῶν ἐπὶ τὸ μνῆμα διεξίοι, Εἰ τὸ καὶ τὸ ἐποίησεν ἄνθρωπος οὑτοσὶ, οὐκ ἂν ἀπέθανεν. De Coronâ. Orat. Græc. i. 307.

Of what advantage is your eloquence to the country? You

now descant upon what is past and done; as if a physician when called to some patient in a sinking state, were to give no advice and prescribe no course whereby the malady might be cured; but when death had happened and the funeral was performing, should follow it to the grave, and expound how the poor man would never have died had such and such things only been done.

No. VII.

Hæc, sicut exposui, ita gesta sunt, Judices: insidiator superatus, vi victa vis, vel potius oppressa virtute audacia est. Nihil dico, quid respublica consecuta sit: nihil, quid vos: nihil, quid omnes boni. Nihil sane id prosit Miloni, qui hoc fato natus est, ut ne se quidem servare potuerit, quin una rempublicam vosque servaret. Si id juro non posset, nihil habeo quod defendam. Sin hoc et ratio doctis, et necessitas barbaris, et mos gentibus, et feris natura ipsa præscripsit, ut omnem semper vim, quacunque ope possent, a corpore, a capite, a vita sua propulsarent; non potestis hoc facinus improbum judicare, quin simul judicetis, omnibus, qui in latrones inciderint, aut illorum telis, aut vestris sententiis esse pereundum. *Pro Milone*, c. 11.

This was the transaction as I have related it:—the assassin overcome,—force vanquished by force, or rather violence overpowered by valour. I say nothing of the country's gain,—nothing of yours,—nothing of all good men's. Let Milo take no benefit from that, holding as he does his very existence upon the condition of being unable to save himself without saving by the same act the commonwealth too. If the act was illegal, I have nothing to urge in its defence. But if it be a lesson which reason has taught the sage, and necessity the savage, and general usage has sanctioned in nations, and nature has imparted to the beasts themselves, that all violence, whether offered to our limbs, our heads, or our lives, should by every means within our reach always be repelled, then can you not adjudge this deed criminal, with-

out at the same time adjudging every one who falls among robbers, to perish either by their daggers, or by your sentence.

Video adhuc constare omnia, Judices: Miloni etiam utile fuisse Clodium vivere; illi ad ea, quæ concupierat, optatissimum interitum Milonis: odium fuisse illius in hunc acerbissimum; in illum hujus nullum: consuetudinem illius perpetuam in vi inferenda; hujus tantum in repellenda: mortem ab illo denuntiatum Miloni, et prædictam palam; nihil unquam auditum ex Milone: profectionis hujus diem illi notum; reditum illius huic ignotum fuisse: hujus iter necessarium; illius etiam potius alienum: hunc præ se tulisse, se illo die Roma exiturum; illum eo die se dissimulasse rediturum: hunc nullius rei mutasse consilium; illum causam mutandi consilii finxisse: huic, si insidiaretur, noctem prope urbem expectandam; illi, etiam si hunc non timeret, tamen accessum ad urbem nocturnum fuisse metuendum. *Pro Milone*, c. 19.

The structure of our language, and the want of the *hic* and *ille*, preclude any attempt at translating this noble argument.

Si hæc non gesta audiretis, sed picta videretis, tamen appareret, uter esset insidiator, uter nihil cogitaret mali, quum alter veheretur in rheda pænulatus, unà sederet uxor. Quid horum non impeditissimum? vestitus, an vehiculum, an comes? quid minus promptum ad pugnam, quum pænula irretitus, rheda impeditus, uxore pæne constrictus esset? Videte nunc illum, primum egredientem e villa, subito: cur?—vesperi: quid necesse est?—tardo: qui convenit, id præsertim temporis? Devertit in villam Pompeii. Pompeium ut videret? Sciebat in Alsiensi esse. Villam ut perspiceret? Millies in ea fuerat. Quid ergo erat moræ, et tergiversationis? Dum hic veniret, locum relinquere noluit.

Age nunc, iter expediti latronis cum Milonis impedimentis comparate. Semper ille antea cum uxore; tum sine ea: nunquam non in rheda; tum in equo: comites Græculi, quocunque ibat, etiam quum in castra Etrusca properabat; tum nugarum in comitatu nihil. Milo, qui nunquam, tum casu pueros symphoniacos uxoris ducebat, et ancillarum greges: ille, qui semper secum scorta, semper exoletos, semper lupas

duceret, tum neminem, nisi ut virum a viro lectum esse diceres. Cur igitur victus est? Quia non semper viator a latrone, nonnunquam etiam latro a viatore occiditur: quia, quamquam paratus in imparatos Clodius, tamen mulier inciderat in viros. *Pro Milone*, c. 20, 21.

If instead of hearing these transactions related, you saw them painted, it still would appear manifest which of the two parties was the conspirator, and which of them had no evil design; when the one should be seen sitting in a carriage, with his wife, and in his cloak. What is there about him that leaves a limb free? dress, or conveyance, or company? Who so ill prepared for fight as yonder man who sits entangled in his mantle, cooped up in a carriage, tied down by his wife? Look now at that other figure,—first leaving the city in a hurry; and why? In the evening—why should he now start? It is late—why should this time of all others suit him? He turns aside to Pompey's Villa. In order to see Pompey? But he is known to be at Alsium. In order to see the Villa? But he has been there a thousand times before. Then why this delay, and this turning aside from the high road? Because he does not choose to leave the spot until Milo shall come up.

Now, then, compare the journey of the robber prepared for action, with that of Milo encumbered in his route. Till then he had always travelled with his wife; on that day he was alone. Before, he always was in his carriage; that day he was on horseback. Formerly, wherever he went his Greeks were with him, even when on his march to the Etrurian camp. On this occasion there was no trifling accompaniments. Milo was now, for the first and only time in his life, attended with his wife's chorus singers, and her whole household of waiting-women. Clodius, who had always travelled with strumpets, always with boys, always with bawds, on that day had not a creature with him but such as you would call picked men. How then came it to pass that he was overpowered? Why, because it is not always the traveller who is overcome by the robber, but sometimes the robber too is slain by the traveller—because, although Clodius had fallen upon the unprepared, himself ready for action, yet the effeminate had fallen among men!

TRANSLATIONS

FROM

DEMOSTHENES.

Converti enim ex Atticis duorum eloquentissimorum nobilissimas Orationes —nec converti ut interpres, sed ut orator, sententiis iisdem et earum formis tanquam figuris, verbis ad nostram consuetudinem aptis; in quibus non verbum pro verbo necesse habui reddere, sed genus omnium verborum vimque servavi.—CICERO, De Opt. Gen. Orat. cap. 5.

ORATION

ON THE

AFFAIRS OF THE CHERSONESE.

INTRODUCTION.

Cersobleptes, king of the country, had ceded the Chersonese to Athens; but Cardia, a principal town, having put itself under the protection of Philip, Diopeithes was dispatched to plant a colony in the peninsula, according to the policy of the Greeks when they wanted to retain any acquisition of distant territory. This general, without any orders to that effect, but relying on support at home from the party of Demosthenes, attacked Maritime Thrace from the Chersonese, regarding Philip's conduct towards Cardia as a sufficient act of hostility to justify this aggression. The result of this incursion was a large booty, which he placed in safety in the peninsula. The Macedonian party of course inveighed bitterly against the proceedings of Diopeithes, as an infraction of the peace which nominally subsisted between Athens and Macedon. The inimitable speech, of which a translation is here attempted, was Demosthenes' answer to their attacks. It unites all the great qualities of his prodigious eloquence in a remarkable degree; and, excepting in the article of invective, of which there is hardly any, it may fairly be

placed on the same line with the Great Oration itself. Indeed, in point of argument and conciseness, and when judged by the severest rules of criticism, it has no superior.

The attempt here made is accompanied with a deep feeling of its necessary failure in many essential particulars. The thing aimed at has been to try how far the meaning of every word in the original could be given best in the English, and as nearly as possible, the Saxon idiom. Under the feeling how widely asunder the design and execution are placed, there is, perhaps, some consolation to be derived from reflecting, that the object in view is really unattainable, as the excellence of the original is altogether unapproachable. It is rather an experiment upon our own language than upon the Greek.

ORATION.

It would be well, Athenians,[1] if all who addressed you, delivered themselves altogether without prejudice and without partiality, each propounding whatsoever he deemed most advisable, especially when you are assembled to deliberate upon public affairs of the greatest importance. But since some speakers are actuated partly by a spirit of contention,[2] partly by other similar motives, it remains for you, men of Athens, you, the people,[3] laying aside all other considerations, what things you deem best for the country, those things to resolve, and (those things) to do.

The question, then, relates to the affairs of the Chersonese, and the military operations which Philip has now for nearly

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[1] See Cæsar's Speech, (Sallust, Bell. Cat. c. 47.) the exordium of which is nearly taken from this.

[2] Προάγονται λέγειν. Happily rendered by Leland, "whose speeches are dictated;" but the end of the paragraph is not literal, nor does it contain all the matter of the original.

[3] Ὑμᾶς τοὺς πολλούς. Neither Laharpe, nor Francis, nor Auger takes any account of this expression; but it is material, being in opposition here to the ἔνιοι and the λέγοντες, from whom Demosthenes appeals to the whole people. Wolf sees this in its true light, and renders the phrase by τὸν δῆμον. (Apud Reisk. Appar. Crit. i. 75.) In other instances the οἱ πολλοὶ are in opposition to the οἱ ὀλίγοι, as towards the end of this Oration.

eleven months been carrying on in Thrace. But this debate has for the most part turned upon what Diopeithes is doing and designs to do. Now, as for those offences of which parties may be accused at any time, and which by law it rests with you to punish when you think fit, either immediately or after a while, I am of opinion that such matters may be reserved for further consideration,[1] and that there is no necessity that either I, or any one else, should contend[2] much about them at present. But as for those places of which Philip, the unprovoked enemy[3] of the country, and at the head of a large force on the Hellespont,[4] is endeavouring to surprise[5]—places which, if we let slip this opportunity, we never again can hope to rescue—[6] as to them I am clear that we ought instantly to take our determination and make our preparations, nor suffer ourselves to be drawn aside from this course by other contentions[7] and other charges.

But astonished as I have been, Athenians, at many things that are oftentimes addressed to you, I own I have never been more astonished than to hear what was lately said in the Senate; that it is the duty of a statesman to counsel either

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[1] Σκοπεῖν ἐγχωρεῖν, "it is admissible to deliberate;" "there is time enough to look after them." Leland connects this with the antecedent κἂν ἤδη δοκῇ, κ. τ. λ. but this cannot be.

[2] Some MSS. have ἰσχυρίζεσθαι without the δι, "to pronounce confidently," "dogmatically."

[3] Ὑπάρχων. This cannot be left out as most translators do, Wolf among the rest; it is not here merely "actual" or "existing," but "beginning," "aggressor."

[4] Leland's "hovering about the Hellespont" is not infelicitous, though perhaps not quite the true sense; for he was actually in the countries περὶ Ἑλλήσποντον, and therefore *was* about, and not *hovering* about. He had alighted.

[5] Προλαβεῖν, clearly is, "to anticipate" or "surprise," given well in Wolf, "præripere." Leland, only "making attempts on;" which gets rid of the meaning, instead of giving it.

[6] Κἂν ἅπαξ ὑστερήσωμεν, κ. τ. λ. literally; "and if this once we be too late, we never shall be able to save *them*;" the relative to connect this with the antecedent ὅσα.

[7] Ἀποδρᾶναι, "run away." Leland, "in the midst of foreign clamours and accusations." This is not the meaning. He refers to the accusations of which he had been speaking, and it is *to* those that the "running away" is supposed to be. The sense is given either by "running away *after*, &c., or "being drawn aside *by*," &c.

absolutely making war[1], or maintaining peace. Now the case is this.[2] If, indeed, Philip will remain at peace, and neither keep possession of our settlements contrary to treaty, nor stir up all the world against us, there is nothing to be said, and peace must be strictly maintained; nor, to say the truth,[3] do I perceive any other disposition on your part. But if the conditions to which we swore, and upon which the peace was made, are plain to be seen, lying written indeed before our eyes, and yet from the first, and before Diopeithes set sail with his settlers, who are now accused of having occasioned the war, Philip manifestly appears to have wrongfully seized many of our possessions, of which your decrees, and those ratified,[4] impeach him; and also to have ever since been seizing the territories of the other Greeks, and of the Barbarians, and employing their force against us—how can these men thus speak of our only having the choice of at once going to war, or remaining at peace? We have no choice at all in the matter; nor any course but one left to pursue, and that of all others the most righteous and the most necessary, which, however, these men carefully overlook. And what is that course? To chastise[5] the first that attacks us;

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[1] Ἢ πολεμεῖν ἁπλῶς, ἢ ἄγειν τὴν εἰρήνην. Their argument was—peace or war, one thing or another, either do nothing at all, or come to hostilities with Philip; meaning, as there was no chance of going to war, that no objection should be made to whatever Philip did.

[2] Ἔστι δέ. Most versions give this—"Be it so," or "Be it peace," which, especially the latter, does not tally with the preceding sentence. But it seems plainly to refer to what follows.

[3] Γε has here the force of "truly." There is a biting sarcasm in these words; but the tone is purposely subdued, and as inoffensive as possible. Demosthenes often attacked them fiercely; but he knew that the multitude can bear invective better than mockery. Leland fails exceedingly in this passage—"and I find it perfectly agreeable to you," viz. peace.

[4] Κύρια—"authoritative," "ratified," "confirmed."

[5] Ἀμύνεσθαι τὸν πρότερον κ. τ. λ. Auger and Laharpe render this '*repousser*'—Francis, "repel"—Leland, "repel force by force." But that is exactly what Demosthenes does not mean to recommend—he is for doing a great deal more, not merely for defensive operations—his whole argument being, that as Philip was substantially at war by his proceedings in one quarter, the Athenians should not merely repel him there, but carry the war into whatever parts of his dominions they could best attack; and this indeed was the very point in issue as to Diopeithes, who had ravaged Thrace, and not made any attack upon Cardia.

unless, indeed, they shall contend that, so long as Philip keeps away from Attica and the Piræus, he neither wrongs this country nor makes war upon it; but then, if it be on grounds like these that they lay down the rules of justice, and trace[1] the limits of peace and war, it must be manifest to every one that they are propounding principles neither just in themselves, nor consonant with your honour,[2] nor even consistent with your safety; nay, it so happens, that they are holding language utterly repugnant to what they charge upon Diopeithes; for how can we give Philip free leave to do whatever he pleases, so he only keeps away from Attica, while Diopeithes must not assist the Thracians, upon pain of being charged with involving us in war? But these things are narrowly scrutinized;[3] and then we are told that it is an outrage for foreign troops to ravage the Hellespont—that Diopeithes has been committing piracy—and that we should not give way to him. Be it so—let him be checked[4]—I have nothing to say against that. Nevertheless, I cannot help thinking, that if these men thus counsel you sincerely, and from mere love of justice; as they are seeking to disband the whole force of the State by calumniating the General[5] who alone provides its pay, they are bound to shew you that Phi-

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[1] Leland has but one verb—"state the bounds of peace and justice;" but there is never any reason for making Demosthenes more concise than he is—*τὰ δίκαια τίθενται, καὶ τὴν εἰρήνην ὁρίζονται.* In what follows, he does not give the sense.

[2] *Ἀνεκτὰ*, "to be endured;" but if it be so taken, there would seem to be an anticlimax in what follows, *οὔθ' ὑμῖν ἀσφαλῆ*. We must render it, "to be endured by you;" and then the whole will stand, "dishonourable, and not even safe."

[3] *Ἐξελέγχονται*. It may either mean that Diopeithes' proceedings are so watched, and represented as equally bad with Philip's; or that Philip's are admitted to be bad, and then that Diopeithes' are maintained to be no better.

[4] *Γιγνέσθω ταῦτα*. This can hardly mean, "let these things be so," because *ἔστω*, which goes before, means that. It must rather be, "Let this," *i. e.* checking Diopeithes—(the antecedent being *μὴ ἐπιτρέπειν αὐτῷ*)—"be done." Most versions omit the words altogether.

[5] Leland has it, "that man whose care and industry support them;" but it is *τὸν ἐφεστηκότα καὶ πορίζοντα χρήματα*, "the person commanding, and providing pay."

lip's army too will be disbanded[1], if you should follow their advice; else you plainly see that they are only reducing the country to the very position which has already been the ruin of our affairs. For you are well aware, that in no one respect has Philip had the advantage of us more than in being always before-hand[2] with us. Constantly at the head of a regular army, and planning prospectively the operations he is to undertake, he suddenly springs[3] upon whomsoever he pleases, while we, after we have ascertained[4] that some blow has been struck, then, and not till then, we put ourselves in a bustle, and begin to prepare. Thus, I conceive, it comes to pass, that whatever he has seized upon he possesses in all security, and that we, coming too late, incur a great expenditure, and incur it all in vain, while displaying our enmity and our desire to check him; but making the attempt after his work is done, we, in addition[5] to our loss, cover ourselves with disgrace.

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[1] This is one of the many instances of most chaste and refined sarcasm which we meet with in Demosthenes, *i. e.* argument clothed in sarcasm of a subdued tone.

[2] Πρότερος πρὸς τοῖς πράγμασι γίγνεσθαι, is hardly rendered by "superior vigilance in improving all opportunities," (Leland)—for, beside being a paraphrase, it does not give the meaning so fully or so idiomatically as the more literal version; nor does it so well maintain the contrast with ὑστερίζειν, a favourite charge with Demosthenes, and urged soon after this passage. Francis is better—"being in action before us."

[3] Ἐξαίφνης ἐφ' οὕς . . πάρεστιν. This expression is very strong. Αἴφνης or ἄφνω, is either, "so quick as not to be seen"—"in the twinkling of an eye"—*ex improviso*—and ἐξ is intensive of that sense; or it may be, "from a place where he could not be seen." Πάρεστιν ἐφ' οὕς—"is present with"—"appears like a ghost"—"arrives and is upon"—"springs upon." Leland has it, "in a moment strike the blow where he pleases," which is not so literal, nor nearly so expressive.

[4] Πυθώμεθα, "made inquiry, and learnt." The same idea runs through this that gave rise to the remarkable illustration in the Second Philippic, "ὥσπερ οἱ βάρβαροι πυκτεύουσιν." The whole of the passage here is very fine. The contrast of the Athenians with Philip is full of bitter sarcasm, and of argument too. Leland omits the πυθώμεθα, and only gives it as "waiting till some event alarm us," which τι γιγνόμενον can hardly be; the version is also paraphrastical, and lowers the excellent effect of first inquiring—then learning—and *then* acting.

[5] Προσοφλισκάνειν. The πρὸς indicates that the disgrace (αἰσχύνη)

Be then well aware, Athenians, that at this very time, the speeches and pretexts of these men are one thing,[1] but there is another thing actually doing and preparing by them—how Philip may best dispose of every thing at his pleasure in absolute security, while you remain at home, and have no force beyond the walls. For only mark, first of all, what is now going on. He is at present lingering[2] in Thrace with a large army, and according to the reports of those on the spot,[3] he is sending for strong reinforcements from Macedon and Thessaly. If, then, waiting till the Etesian winds set in, he falls upon Byzantium, and lays siege to it, do you think, in the first place, that the Byzantians will remain as they are, infatuated,[4] and not call upon you, and require you to

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is over and above something else. Now, the only antecedents were the δαπάνη which is mentioned, and the failure from being behind-hand; and loss implies both; πρὸς therefore means, "in addition to our loss." The beauty of the diction in this passage is remarkable—δαπανησώμεν and ἀνηλωκέναι, as well as προσοφλισκάνειν. Δαπάνη, uncompounded, may be taken for "simple expenditure," though often used for "extravagance;" ἀναλίσκω, the compound, is properly, "to squander."

[1] Τἄλλα μέν ἐστι κ. τ. λ. "The rest is words and pretext—what they are doing is, &c." The antithesis in the idea, and no in the words, is a distinguishing feature of Demosthenes. He disdains every thing *verbal*—all jingle. But here the contrast is as marked as if the structure had brought πράττεται in opposition to λέγεται.

[2] Διατρίβει. Some, as Leland, give this merely as if it were expressive of his being, or being stationed, in Thrace. The word may be used, like *commorari*, for merely "staying;" but here it seems to have its original sense.

[3] Οἱ παρόντες. This can hardly mean, "those present here"—at the assembly—without reference to their having been on the spot. Wolf considers it, however, as merely those present. Reiske inclines to think it means those coming from Macedon and Thessaly, and therefore aware of Philip having ordered troops from thence; he thus rather connects οἱ παρόντες with ἀπὸ Μακεδονίας, κ. τ. λ., leaving μεταπέμπεται absolute. Hervagius, like most critics, puts the comma at παρόντες. Auger gives it as meaning "persons on the spot"—not at Athens. As for Laharpe, he hardly troubles himself with the original in this passage at all, but speaks of Philip having "been long in Thrace and Thessaly"! Leland, "as we are here informed." Francis, "as persons here present assure us."

[4] Ἄνοια means more than "folly"—it is "mental alienation;" and Demosthenes intends so to describe the conduct of the Byzantines, in having rebelliously left the Athenians, and joined Chios and Rhodes against them; παρακαλέσειν οὔτ'

assist them? I believe nothing of the kind; nay, if even there were any other people whom they mistrusted more than they do you, they would rather admit that people into their city than surrender it to Philip,—always supposing him not to have already surprised and taken it. Should we, then, be windbound here, and unable to make sail from hence,[1] if no succour is provided there, nothing can prevent the destruction of that people.

But these men, it will be said, are absolutely moonstricken, —they are in some paroxysm[2] of mental alienation. Be it so,—they must nevertheless be saved; for our own safety requires that. Besides,[3] it is by no means so certain after all, that Philip will not invade the Chersonese. Indeed, to judge by the letter which he has addressed to you, he means to attack our troops there. If then this army be now kept on foot, it will be able both to protect that province, and to harass him; but if once it is broken up, and he marches upon the Chersonese, where are we, and what shall we do? Bring Diopeithes to trial? Good God! and how will our affairs be the better for that? But we shall send succours from hence?[4] And what if we are prevented by the winds?

ἀξιώσειν means more than "to have recourse for assistance," as Leland has it; or "to implore assistance," as Francis; it seems to imply a *claim*, as entitled to aid.

[1] Ἐνθένδ' ἀναπλεῦσαι—"sail from hence;" not "thither," as Leland has inadvertently rendered it.

[2] Κακοδαιμονοῦσι—ὑπερβάλλουσιν ἀνοίᾳ. Leland fails signally here,—"The extravagance and folly of these men exceed all bounds," is feeble and unlike the original,—to say nothing of extravagance exceeding bounds. Francis is better, because more literal; "they are absolutely (νὴ Δία) possessed by some evil dæmon." Wolf, "intemperiis agitantur, nec ad eorum amentiam addi quicquam potest." It is plain that coming after κακοδαιμονοῦσι, the ὑπερβάλλουσι must imply an excess of mental alienation. The former is expressed by "moonstricken," or "evil influence,"—the latter by "paroxysm."

[3] The passage that follows is one of extraordinary force and rapidity; it is truly Demosthenic.

[4] Βοηθήσομεν αὐτοῖς. This certainly looks as if the τοὺς ἐν Χερρονήσῳ meant the Chersonesitans, as some have rendered it, there being no αὐτοὶ to assist, if the army supposed to be broken up be the Athenian army in the Chersonese. In some MSS. and Editions, as that of Hervagius, it is αὐτοί. Reiske prefers αὐτοῖς, and holds the meaning to be, "the Chersonesitans."—Orat. Græc. Appar. Crit. ii. 211.

But then they say he won't come? And who, I ask, will be answerable for that? But, Athenians, do you observe and reflect upon the approaching season of the year, at which there are some who actually think you should leave the Hellespont defenceless, and abandon it to Philip? What then? If on his return from Thrace, and neither marching upon the Chersonese, nor upon Byzantium, (for this possibility must also be taken into the account) he attacks Chalcis and Megara, as he lately did Oreus, whether will it be better to attack him there and let the war come close to Attica, or to find employment for him at a distance?[1] I certainly prefer the latter course.

All, therefore, who have seen and considered these things, will not only refrain from attempts to discredit and to destroy the army which Diopeithes is doing his utmost to raise for our defence; but will exert themselves to provide another[2] army for his assistance, to aid him with funds and credit,[3] and to co-operate with him in whatever other way they can serve him best. For, if Philip were asked,—Had you rather these troops now under Diopeithes, such as they are, (on that head I say nothing) were well maintained, held in honour by the Athenians, and reinforced by the state,—or that they were dissipated and annihilated, in deference to the slanders and the charges of certain persons?—I can have no doubt that he would prefer the latter alternative. And is it possible that some among ourselves should be doing the very things for him which he himself would pray the gods to grant him? And can you still ask how it happens that the

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[1] Ἐκεῖ—"there,"—but as ἐνθάδε had previously been used, and with the sense of "there," because referring to the immediate antecedent, Chalcis and Megara, ἐκεῖ must be taken to mean the former antecedent—the Chersonese—where occupation was to be found for him.

[2] Ἑτέραν. Francis, Auger, Laharpe, Leland, &c. conceive that they are translating idiomatically when they render this by "reinforcements." The literal version is much to be preferred.—"Instead of trying to destroy the army he has raised, (or is raising) you ought to raise *another* in addition."—Προσπαρασκευάζειν—"to prepare beforehand"—"to have it ready when he shall want it."

[3] Συνευποροῦντας χρημάτων. This is always rendered as merely supplying money or funds,—but the σὺν appears to imply a helping him to obtain, as well as furnishing—and that would mean credit as well as funds.

affairs of this country have gone to ruin? I would fain,[1] therefore, lay before you without reserve the present state of these affairs, and examine what we are now doing, and how we are dealing with them.[2] We neither choose to contribute our money, nor dare we serve in person, nor can we keep our hands off the public funds, nor do we furnish to Diopeithes the supplies voted, nor will we give him credit for supplying himself; but we must cavil at him, and pry into the reasons and the plans of his future operations, and whatever else can most harass him; nor yet, though we are in this temper of mind, does it please us to take our affairs into our own hands,[3] but while in words we extol those who hold a language worthy of the nation, by our actions we co-operate with those who are thwarting their counsels. As often as any one rises to speak, you are wont to ask him, What

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[1] Βούλομαι τοίνυν πρὸς ὑμᾶς κ.τ.λ. is not to be rendered merely, as Francis and others do—"I shall"—or "I will now"—or "I am going to"; nor is Leland even so near the mark as that, when, by a paraphrase quite wide of the meaning, he translates, "let me entreat you to examine." Wolf, by the literal "*velim autem*," comes much nearer. Why both he and Leland should make the ἐξετάσαι and σκέψασθαι (aorists of an active and a middle verb) have the neuter or rather passive sense of "being examined," as by you, is not easily perceived. The former word, though generally meaning to "inquire" or "examine," also signifies to "go over"—the latter here is plainly to "consider" or "examine."

[2] Χρώμεθ' αὑτοῖς, "comporting" or "bearing ourselves"—but in reference to the παρόντα πράγματα—therefore "dealing with them." Wolf, indeed, renders it χρώμεθα τοῖς παροῦσι πράγμασι. Orat. Græc. Appar. Crit. i. 78.

This is one of the finest passages in this or in any of the Orations, and it is remarkable how little it loses by translation—provided that be literal. Every word, however, is to be weighed; none can be added nor any taken away; both qualities of the great orations here unite—the "*nihil detrahi*," and the "*nihil addi*."—Quintil. The variation of the governing verb in the first branch of the passage—Βούλομαι—τολμάω—δύναμαι, &c. and the repetition of the other set of verbs, omitting the governing ones, are to be noted. The celebrated address of Adam to Eve, in Milton, is framed on a like plan, and is an illustration of that great man's close study of the Greek orators—to which so many of the speeches in Paradise Lost bear testimony.

[3] Wolf suggests that τὰ ἡμέτερ' αὐτῶν πράττειν may possibly mean,—"do each man his own duty, without obstructing others,"—which is ingenious, and bears on the argument about obstructing Diopeithes. But ἕκαστος, or some such word, would have been added; as the text stands, it hardly can bear the meaning suggested.—*Apud Reisk. Appar. Crit.* i. 79. Leland is quite distant from the meaning—"Thus we proceed, quite regardless of our interests."

there is to be done? But I am disposed to ask you,[1] What there is to be said? For if you will neither contribute, nor serve in person, nor abstain from the public funds, nor furnish the supplies assigned to Diopeithes, nor leave him to supply himself, nor resolve to take charge of your own affairs, I know not what to say;—for if you give such licence to those who would carp at him, and tear his conduct in pieces on account of what, according to them, he is going to do, and if you listen to charges thus made by anticipation,[2] what can any one say? But what may be the result of all this,[3] it is fit that some of you should now learn; and I will speak my mind freely; for on any other terms I cannot submit to speak at all.

All your commanders who ever sailed from hence, I will answer for it with my life,[4] levied contributions on the Chians and the Erythræans, and whatever other people they could, I mean, of course, Asiatics. Such as have a vessel or two, take

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[1] This part of the passage is full of refined wit—almost playful wit.—"If you will be always asking us orators, whose business is with saying, to tell you what you are to do; why, really we must needs turn the tables upon you, whose business is with doing, and ask you to tell us what we are to say." When Cicero said, "jocos non contigisse," he must have meant jests and not wit.

[2] Προκατηγορούντων—"accusing before hand"—refers to their prying before mentioned, and grounding charges not on what he had done, but on what he was by their own surmises supposed to be going to do.—ὃν φασι κ.τ.λ. This is the winding up of the whole of their unreasonable conduct, and is very strikingly put.

[3] Francis thinks ὅ, τι τοίνυν δύναται κ.τ.λ. must mean that Diopeithes could do all these things,—*i. e.* by the usage of military men, and that Demosthenes means now to prove it. But he does not—he only shews the effects of the conduct of the accusers and the Athenians. Next, there is no οὗτος or ἐκεῖνος. Then, there seems no antecedent to ταῦτα, in the sense of things already done by Diopeithes; and nothing that he intended to do was specified, but only reference was made to his accusers surmising something, without saying what; and accordingly Francis and Lucchesini, whom in this he follows, to support this gloss, are obliged to alter the sense and to add, "what he has done." Leland is here right. The Greek is confessedly somewhat obscure. Wolf gives "Quid his rebus proficiatur," which is followed by Tourreil; and, with less than his accustomed diffuseness and paraphrase, by Auger; and Laharpe has the same sense, but, as usual, leaving out part, and inserting something else.

[4] Πάσχειν ὁτιοῦν τιμῶμαι—"I am condemned"—"adjudged." Seeing this, some readings have it, ἕτοιμός εἰμι.—Reisk. Appar. Crit. ii. 231.

less,[1]—such as have a greater force, more; and those who pay, do not give for nothing either the smaller sums or the larger; they know better what they are about; they purchase for their merchants, freedom from injury and from pillage when their ships are passing to and fro.[2] But the contributions, it is said, are free gifts, and by this name these levies pass; and now it is perfectly certain that those nations will furnish such supplies to Diopeithes as soon as they see him at the head of an army. Indeed, from what other quarters do you imagine that he, who receives nothing at all from home, and has no funds of his own wherewithal to pay his soldiers, can derive the means of supporting them? From the clouds, think you? No such thing,—he must support them upon what he can collect, and beg, and borrow. His accusers, then, are in reality doing nothing but warning all not to give supplies to one who is about to be punished, not only for what he may have done, or assisted in doing, but for what he may intend to do.[3] Their language is this: "He is preparing sieges,—he is sacrificing the Greeks." Much these men care for the Greeks that live in Asia! They are better at caring for them than for the Greeks of their own country.[4] And this, I presume, is the reason why another commander must needs be sent to the Hellespont. But if Dio-

[1] Ἐλάττονα. Leland has it, "a talent,"—according, apparently, to some reading unknown to most commentators. Neither Wolf, Reiske, nor Hervagius, mentions it.

[2] Reiske and others have a stop thus at αὐτῶν· τὰ τοιαῦτα. φασὶ δ' εὐνοίᾳ διδόναι. It seems raising a gratuitous difficulty and a plainly bad reading. Wolf stops it in the same way, and supplies other words, as either χρήματα διδόασιν, (the antecedent being not the things given, but the purpose of the gift) or ἐστὶ τὰ πράγματα.—"But they say that these contributions are given through benevolence (or good will), and by this name the levies pass." They are literally called "*benevolences*,"—as in England of old; so universal is the vocabulary of fraudulent oppression!

[3] A play on the words μέλλει and μέλει (used immediately afterwards) has been suggested by some,—a thing so entirely unlike Demosthenes, that Reiske justly dismisses the notion as absurd.—Appar. Crit. ii. 213.

[4] A remarkable instance of Demosthenes passing by an obvious sarcasm, or rather of his taking a gentle, subdued one, instead of a double and more cutting one. Ἀμείνους. The sense may either be: "they are very good to take care," &c. or "they are better at taking care," &c. Wolf is so much pleased with this latter sense that he cites Virgil,—"Et cantare pares, et respondere parati."—Apud Reisk. Appar. Crit. i. 80.

peithes has committed these outrages—if he is guilty of piracy—a dispatch,[1] Athenians, a little dispatch, will suffice, to stop it all. The law says that wrong-doers shall be impeached; not, good God! that we are to defend ourselves against them by costly expeditions and fleets,—that would be the height of folly. Against the enemy whom we cannot bring under the lash of the law, it may be necessary to maintain armies, and fit out fleets, and contribute funds; but against our own citizens, decrees—impeachment—the vessel of recal—these are the appropriate proceedings—these are the measures of right-thinking men; but what those people are now about is the course of workers of mischief—of men who are bringing ruin upon the country.

That there should be such men among us, is indeed portentous; and yet it should seem not to be so.[2] On the contrary, in this meeting, you who are here assembled are so minded, that if any one were to stand forward and denounce Diopeithes, or Chares, or Aristophon, or any other of your fellow-citizens, as the cause of all our misfortunes, you would straightway applaud him, and cry out that he was in the right; but were any one to stand forward and say what is strictly true—"Athenians, you are trifling—Philip is the cause of all these miscarriages in our affairs;[3] for if he would

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[1] Πινάκιον.—Some have it, "an impeachment of treason." Reiske, as he generally does, takes the right view: "a letter of recal from the people." Appar. Crit. ii. 214.

[2] Δεινὸν ὄν, οὐ δεινόν ἐστιν. The commentators, after their manner, pass over the real difficulty. Wolf translates it by a kind of play on the words—"quamquam ferendum graviter, non tamen graviter est ferendum"—quite unlike Demosthenes. Reiske is silent; Francis not unhappily suggests ὑμῖν as to be inserted. It may be that the word is ἔχετ'; or ἐξετ'. At any rate we cannot suppose δεινὸν used in two different senses in the same breath—namely, as "what ought to be," or, "what is,"—(monstrous). It is barely possible that Demosthenes may have said—"This is both monstrous, and after all, not monstrous, for," &c., meaning, "to look at your conduct it seems not so." There is a phrase of a like kind—οὐκ ἑκὼν, ἑκὼν, (wold he, nold he). Tourreil takes the meaning to be—that the having such men at Athens was bad enough, but that what followed was worse; *i. e.* that compared with the latter evil, the former, however bad in itself, was no evil at all. On this view at least his version is grounded, (p. 117), and he is followed by both Laharpe and Auger.

[3] Κακῶν καὶ πραγμάτων, justifies the departure from the version of the κακῶν, which immediately precedes.

only remain at peace, this country would be in no trouble;" you would have nothing to say in contradiction of a statement so true: nevertheless, I am almost certain that you would be offended, and would feel as if you had lost something by it.[1] The cause of all this (and Heaven grant that I may be suffered to speak frankly, as I am only speaking for your benefit) but the cause of it is, that one class of our statesmen have for a long time past taught you to be as awful and as stern in your public meetings, as in your warlike operations you are supine and contemptible. Thus, if some one within your power, and whose person you can at any time seize, is denounced, you assent and desire it may be done; but if the party denounced be one whom you must first overcome in the field before you can punish him, then I imagine you will find yourselves at a loss how to proceed, though you would be grievously offended at being convicted of such conduct. The contrary of this course, Athenians, was the duty of all statesmen; to give you habits of gentleness and humanity in your assemblies, where the rights of yourselves and your allies are debated; to make you wear an aspect formidable and stern in warlike operations, where the strife is with enemies—with antagonists.[2] But now, by managing and courting you beyond all bounds, they have brought you to this, that, spoilt with being pampered and fawned upon,[3] you can bear to hear

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[1] Leland renders this: "as if it were the account of some dreadful misfortune." It appears rather to be—"You would seem to think you had lost something," *i. e.* by the advice or statement.

The passage immediately following is very fine; and the diction corresponds with the vehemence of the matter. It forms a contrast with the somewhat feeble one a little way back—about not employing armies and fleets against individuals under the power of the law; which if it be not a grave irony—not like Demosthenes—is an expanded truism.

[2] Ἀντιπάλους must mean more than the ἐχθροὺς which precedes. It is "antagonists"—but fighting on somewhat equal terms—those who are a match for you; as if he had said "with enemies; ay, and formidable ones too."

[3] Τρυφᾶν καὶ κολακεύεσθαι—the former (τρυφάω) is from θρύπτω "to enfeeble," and means—"to behave like one spoilt with pampering;" the latter—"to be wheedled"—from κόλαξ a parasite. Δημαγωγοῦντες may mean "flattering;" but it is a translatitious sense, the meaning being, "to lead or drive the people." Leland has paraphrased this word and χαριζόμενοι καθ' ὑπερβολὴν into "leading you gently on to their purposes by the most abject compliances with

in the assembly only what tickles your ear, while in the real state of your affairs and of events, you are destined speedily to struggle for your very existence.

Now then, by Heavens, suppose the states of Greece should call you to account for the opportunities which through supineness you have let slip, and should interrogate you thus, —"You, men of Athens, are always sending ambassadors, and telling us how Philip is plotting against us and all the Greeks, and how we should be on our guard against the man" (with many other things to this effect, as it must be confessed we do):[1] "And yet, O most pitiful of mortals![2] for ten months was that same man detained abroad; intercepted by sickness, and winter, and wars, his return home was impossible; and you have neither delivered Eubœa, nor recovered a single one of your possessions; but while you remained at home idling away your time at your ease,[3] and in health, (if they who thus act can be in a healthy state,[4]) he planted two tyrants in Eubœa, erecting[5] them as bulwarks,

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your humours,"; and in the same passage, he renders—*διατεθείκασιν*—"have formed and moulded;"—Nor is *πάντα πρὸς ἡδονήν*, "entertainment"; it is "what pleases"—"gives delight"—"tickles the ear." *Τρυφᾷν* is not satisfied by "being delicate;" this applies rather to the "listening only to soft things"—which follows: "spoilt" is plainly required by *τρυφᾷν*. There is wanting, too, a connecting word, as "while," to make the concluding part of the sentence refer to the rest; and *πράγμασι καὶ τοῖς γιγνομένοις* is more than "affairs;" it is to make the contrast stronger with the *λόγοι* and *ἐκκλεσίαι*.

[1] This is plainly a parenthesis, as Reiske has observed. Some, as Auger, make only the part after *τοιαῦτα* parenthetical—which is quite impossible. The marks of parenthesis are omitted in Reiske's text. See Orat. Græc. i. 98, App. Crit. ii. 215.

[2] *Φαυλότατοι*—"insignificant" or "of mean value," enters into this word necessarily; and Leland's "wretched" will not do. (Qu. "dastardly.")

[3] *Σχολὴν ἀγόντων*. "Keeping holiday" is the literal, perhaps the best version: *σχολὴ* came to signify the reverse of idleness, from the borrowed meaning of employing leisure in work—thus "*vacare* negotiis"—and "*ludi* magister"

[4] *Ὑγιαινόντων*, (*εἰ δεῖ κ. τ. λ.*) It seems hardly possible to escape the conclusion that Demosthenes here plays upon the word, as in the parenthesis it must mean "mental health," and in the other use, "bodily," as opposed to the *νόσος* from which Philip's operations suffered. It is barely possible that it may be an hyperbole importing—that nothing but sickness can account for the inaction.

[5] *Ἐπιτειχίσας*—"*audacule dictum*" says Reiske, App. Crit. ii. 216; but

one against Attica, the other against Sciathos,—and you did nothing to prevent him,—which you well might, even if you had done no more; but you connived at him, and notoriously abandoned your rights to him, and made it manifest[1] that were he to die ten times over, you never would bestir yourselves the more.[2] Wherefore, then, send ambassadors, and make charges, and busy yourselves with our concerns?"—If those states should hold this language, Athenians, what answer could we make, or what should we have to say?[3] I protest I cannot see. But some there are who think to embarrass a speaker by asking him—"What ought we to do?". To them I would give this answer—the most just and the most true that can be given. "Do anything but what you are now doing"—but further I will state the matter articulately; and as they are so ready to ask, let them be as willing to act.[4]

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he thinks the "duritics dictionis" softened by supposing "tyrant" to be put for "power of a tyrant!" Leland almost entirely loses this fine figure: "Eubœa is commanded by his two tyrants; the one, just opposite to Attica, to keep you perpetually in awe." Francis makes them both kings, but applies ἐπιτειχίσας to neither; he introduces Eretria, and makes it the thing fortified—as if ἀπαντικρὺ was τὴν χώραν ἀπαντικρύ.

The whole of this supposed expostulation is of the highest order of indignant eloquence, the latter part especially; it cuts the Athenians to the quick. There almost seems reason to suppose that they had on some occasion been mean enough to defend their ῥαθυμία by saying, "only wait till Philip is well dead." Their reference to their missions, &c. is equally severe. Reiske changed πρεσβεύετε into the middle, to shew that "sending ambassadors," and not "going on embassies," was meant; but it is by no means clear that "going" is not meant. The sarcasm may be this: "what signifies your coming to us as ambassadors, and your accusing others, and your stirring us up to act? Why don't you stay at home and practise what you are so ready to preach?"

[1] Φανερὸν πεποιήκατε, never can be, as Leland has it, "fully declared." If he means, "your conduct shews," it is too violent; if literally, "a declaration," it is not the sense of the passage.

[2] Leland's "it would not inspire you with the least degree of vigour," is both a paraphrase and much inferior to the literal version of οὐδὲν μᾶλλον κινήσεσθε.

[3] Ἐροῦμεν—φήσομεν—the former—"what shall we advance"—"declare"—"answer?" the latter—"what have we got to say at all?"

[4] Leland gives this admirably, if not very literally: "as ready to follow, as to ask advice."

Of one thing then, Athenians, you must in the outset be intimately persuaded, that Philip is making war upon this country, and the peace is at an end.—Give over accusing each other upon this head; he is the bitter enemy of the whole city, and of the ground it stands on; and, I will add, of all who are within it; and those most[1] of all who flatter themselves they are in favour with him. If they doubt it, let them look at Euthycrates and Lasthenes, the Olynthians, who, to all appearance, on the most familiar footing with him, after betraying their country to him, perished the most miserably of any.[2]—But with nothing is he more at war than with our Constitution; against nothing are his plans more steadily pointed; to nothing does he look more keenly than to how he may destroy it; and here indeed he acts consistently[3] enough; he knows full well that though he were to make himself the master of all the rest of Greece, he never could have any secure footing anywhere so long as your popular Government lasted, and that, should he encounter any of the shocks[4] which so often

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[1] Τοῖς μάλιστ' οἰομένοις—is by some (Leland among them) given as if μάλιστα were connected with χαρίζεσθαι—but what follows as to Lasthenes shews that it is not so. Wolf connects it with ἐχθρὸς—but adds a superlative *(maxime)* to the χαρίζεσθαι.

This passage is repeated in the Fourth Philippic; which is indeed in great part made up of passages from the other minor Orations, and most of all from the Chersonese. But the repetition of this passage has variations more remarkable than that of most others; and of these the most striking is, that instead of τοῖς ἐν τῇ πόλει πᾶσιν ἀνθρώποις, it is θεοῖς—and he adds, as it were in passing, the exclamation οἵπερ αὐτὸν ἐξολέσαιεν—" may they utterly annihilate him!" Wolf notes the repetition, but as if it were without change, (Apud Reisk. Appar. Crit. i. 7.).—προσθήσω certainly agrees better with θεοῖς than ἀνθρώποις—for with the latter it is an anti-climax; since no doubt he who was hostile to the very ground must be so to the inhabitants.

[2] It is well known they did not die—but were reduced to disgrace at Philip's Court; of whom it is related that when they complained of the people calling them traitors, Philip archly observed: " These Macedonians are rough sort of folk—they call a spade a spade."

[3] Εἰκότως——πράττει. In the Fourth Philippic it is ἐξ ἀνάγκης—ποιεῖ. Leland renders it by " in some sort a necessity," as if he had the Fourth Philippic under his eye—which he certainly had in a subsequent passage; but here it is only " consistency," or some " likely reason."

[4] Πταῖσμα—" a fall from striking on any thing"—" if he should encounter any of the many shocks which happen to man."

happen to all men, all whom he has now subjected to his power would be found[1] flying for protection to you. For you are not by nature prone to grasping and usurpation, but rather famous for resisting the encroachments of others, and wresting their acquisitions from them; ready to make head against ambitious tyrants and restore[2] liberty to mankind.—Can Philip, then, be pleased that your liberty should be lying in wait[3] for opportunities to molest him? Far from it; he is not so bad or superficial[4] a reasoner.

It behoves you, therefore, in the first place, to regard him as the enemy of our constitution, the implacable enemy of its democratic structure;[5] for if your minds are not imbued with this belief, you will never be strenuous in the prosecution of your measures. In the next place, you must be thoroughly aware that whatever he is working at and preparing, he is preparing against this country, and that whoever resists him anywhere, opposes him there in our defence. Nor is there any

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[1] Ἥξει πάντα κ.τ.λ.—"it would happen," or "turn out that all, &c." But the force of "would be found" is the same.

[2] Ἐξαφελέσθαι. "*Assert* the liberties," as Leland has it, will not do. It is—"to remove," "transfer," "translate,"—i. e. *out of slavery into liberty. Assert* applies to resisting those who would enslave, as well as to freeing those already enslaved. Demosthenes plainly meant here the latter; he had already provided for the former by ἐνοχλῆσαι.

[3] Leland is exceedingly good here—"he sees, in your freedom, a spy upon the incidents of his fortune;" only that spy is not the word—it is some one lying in wait for the opportunity to spring upon him; it is one in ambush—and not a scout. Perhaps if such a thing as lending a figure to Demosthenes were ever lawful, Leland might have thus given it.—"Can he be pleased to think that your liberty is lying in ambush upon the march of his fortune!" Leland omits the answer, οὐδὲ πολλοῦ δεῖ, and changes the sense of the commentary οὐ κακῶς κ.τ.λ. by his translation.

[4] Οὐδ ἀργῶς—from ἀργὸς, q. ἀϐ ἔργον.—Perhaps we might say, "in an unworkmanlike manner."

[5] Leland seems to consider the ἐχθρὸς simply as applied to πολιτεία, and the ἀδιαλλάκτον to δημοκρατία—and this is very possible; nor does it appear to be a refinement. It requires, however, in English, a repetition of the substantive. But he is plainly wrong in rendering πολιτεία, "state," and δημοκρατία, "free constitution:" the former is not used for πόλις, but always for "government," or "system,"—the latter for the "popular nature" of it.

one of you simple enough to suppose that Philip is only bent[1] upon possessing these miserable villages in Thrace, (for what else can we call Drongilos, and Cabyle, and Masteira, and the other places which he is now attacking and reducing?) or that to take such places as these he would expose himself to toil, and weather, and the greatest perils; while for the Athenian ports, and arsenals, and navy,[2] and silver mines, and rich[3] revenues,[4] he cared nothing, but suffered you to retain them all, himself willing to winter in a loathsome dungeon for the millet and rye of the Thracian store-pits?—No such thing—but it is to make himself master of your possessions that this and all his other enterprises are undertaken.

What is the course, then, for wise men to take? Knowing and confessing all these things, to shake off that excessive and incurable[5] inactivity; to contribute money; to claim[6] the contributions of your allies; to make effectual provision[7] for keeping on foot the regular army, in order that, as Philip has a force ever ready for outraging and enslaving all the Greeks, you may in like manner have[8] one ready to save and

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[1] Ἐπιθυμεῖν, κ.τ.λ. Leland gives this admirably by, "his desires are centred in these paltry villages."

[2] Some MSS. omit the τριήρων—but there is no tautology in having both νεωρίων and that; for νεώρια may be "arsenals" as well as "navy."

[3] Τοσούτων—"so great,"—but not comparing them with anything else,—must be taken to mean "vast," "great," "rich." Leland renders it "other revenues;" but nothing like revenues had been mentioned, unless, perhaps, the silver works—and τοσοῦτος is not "other."

[4] Here, as in a former passage, he next year (in the Fourth Philippic) adds a fine sentence, greatly heightening the effect—καὶ τόπων, κ.τ.λ. (and territory, and renown, which heaven forbid that either he, or any other conqueror of our country, should ever strip us of!)

[5] Ἀνήκεστον. This certainly means "incurable," though it may be only an intensive, like ὑπερβάλλουσαν;—for it seems like a contradiction to advise shaking off that which cannot be got rid of.

[6] Ἀξιοῦν implies a demand as of right, *i. e.* claim the quota they were bound to contribute.

[7] Ὁρᾷν καὶ πράττειν—"see to, and act for, keeping up," &c. Leland has it: "take all possible measures." The more literal, "make effectual provision," seems to include "see" and "do."

[8] Ἔχητε and ἅπασιν, "have," and "all," omitted by Leland, as if too literal, give great force and beauty to this passage.

to succour them all. For with occasional levies[1] none of the military operations which are necessary can be undertaken; troops must be equipped, and magazines provided, and treasures, and a military police[2] appointed, and the strictest watch kept upon the military chest, care being however taken to make the treasurers accountable for the financial department, and the commander for the military operations. If you were to act thus, and be really[3] strongly animated with this spirit, you would either compel Philip strictly to maintain peace and stay at home, (which is the best thing that could happen) or you would wage war with him upon equal terms.[4]

If indeed any one reckons that all this will require both a heavy expense and much toil and exertion,[5] he reckons rightly. Yet when he reflects on what will assuredly befal the country if we do nothing of the kind, he will find that we shall be gainers by doing cheerfully[6] what ought to be done. But if the gods themselves were to engage for what no mortal could be trusted were he to promise, that you might remain inactive, leaving everything undone, and Philip should never

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[1] Βοηθείαις. This word came to signify "a sudden levy," or "raw troops;" hence to Attic ears there was no incongruity in this passage with the preceding requisition to have an army ready—βοήθησουσαν.

[2] Δημοσίους. This may be an adjective, agreeing with ταμίας, though separated by the καὶ,—the καὶ being, indeed, omitted in some MSS., and in Hervagius, and most editions. But Reiske seems well warranted in inserting it. The Treasurer, or Questor, ταμίας, was necessarily a public officer, and δημόσιος means "gaoler," "police," *v.g. Provost-marshal.*

[3] Some MSS. join ὡς ἀληθῶς with ἄγειν εἰρήνην; but without it the ἐθελήσητε, coming after the ποιήσητε is feeble—not to say, an anticlimax.

[4] A most beautiful addition is made to this passage, in the repetition of it in the Fourth Philippic. Καὶ ἴσως, κ. τ. λ. ("and then, perhaps, Athenians, as you now are anxiously asking, what is Philip doing? and whither is he marching? So the day may come, when he shall be solicitous to know whither the armies of Athens have gone; and on what point they will make their appearance.")

[5] Πόνων καὶ πραγματείας,—"toil and trouble," as well given by Leland—and quite literal. But the phrase has become with us applicable to other and lesser exertions than national ones.

[6] Ἑκόντας ποιεῖν τὰ δέοντα, is ill rendered by Leland: "engaging heartily in this cause."

attack you, it would still, by Heavens, be scandalous and wholly unworthy of yourselves, of the high destinies[1] of the country, and the renown of your forefathers, to deliver over all the rest of Greece to bondage for the sake of your own ease; and for myself, I would much rather have laid down my life than be the adviser of such conduct. If, indeed, any one else will recommend it, and shall succeed in persuading you—be it so—cease to defend yourselves—give up the struggle. But if no one can be found to hold such language; if, on the contrary, we all plainly perceive that by how much the more wide we suffer him to stretch his sway, by so much the more vehement and more terrible an enemy we shall have to cope with, to what subterfuge[2] shall we betake ourselves? or why do we stand inactive? or when, O Athenians, shall we really set about acting as we ought? When, forsooth, some urgent necessity presses? Why, what every free man would call urgent necessity not only presses at this moment, but has long ago overtaken us;—and as for any necessity calculated to act upon slaves, let us pray that none such ever may arise. How do the two extremities differ? In this,—that to the free, the most urgent necessity is the shame of misconduct,—a greater I know none that can be named,—while the slave is only sensible to the blow and the stripe,[3]—and God forbid that should ever happen which it is degrading even to name!

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[1] Ὑπαρχόντων. Wolf and others render this, "dignity;" some, "glory." That is certainly not the true sense: it is literally, "the gifts of fortune," "the fortune or fate," and it may well mean here, "high destinies."

[2] Ἀναδυόμεθα,—"get away from something we wish to avoid,"—"to escape," "subterfuge." Leland, "Why this reluctance?" and Francis has the same word "reluctant." But this is not sufficient;—ἀναδύομαι denotes "rising out of the water"—the reversed operation of diving. Wolf's "quo subterfugimus?" is good.

[3] Αἰκισμός. It may be questioned if this is not from ἀ and εἴκω—"unbecoming," or "beneath dignity," generally,—and here with τοῦ σώματος,—"bodily indignity," and nothing more. This subdued expression may perhaps better suit the following phrase of "not mentioning,—as the ἀποσιώπησις may seem rather strong if "flogging" had been named in terms. Nevertheless, the ordinary meaning is the strong one, and Wolf abates none of it in "excarnificatio." Certain it is that Leland's "bodily pains" will not do,—nor Francis's "bodily tortures,"—nor Auger's "chatiment et coups," (πληγαί, which pre-

Though I could willingly enter upon other subjects, and shew in what manner certain persons misguide you by their policy,[1] yet I pass over these things. But as soon as Philip's affairs come into discussion, some one always rises, and dwells on the advantages of peace, the burthen of maintaining a large army, and the designs of certain persons on the public purse, with much more of such topics as tend to impede your operations and enable Philip to do in perfect security whatever he pleases; of all which the consequence is, you gain a holiday, a respite for the present from exertion,—which I much fear you may hereafter find has cost you dear,—while they obtain your good graces[2] and Philip's favour. For my part,[3] I can see no occasion there is to recommend peace to you, who, already quite enough disposed to it, are sitting with your hands across; it should rather be enjoined to him, who is engaged in warlike operations; for could he but be so persuaded, every thing on your part is peaceable enough. What you should be taught to regard as grievous, is not the expense necessary for the salvation of the country, but the fate that awaits us if this expense shall be refused, if we do not prevent the squandering of our revenues by contriving proper checks, and if we abandon all charge of the public concerns:[4] although my indignation is moved when I see men

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cedes, is "blows" generally) and least of all, Laharpe's, "contrainte, violence, et crue des chatiments."

[1] Καταπολιτεύονται may be dyslogistic—as advising a downward course—or a course against your interests; but probably it is only adversative—thwart you in their policy,—or by their schemes.

[2] Αἱ χάριτες καὶ ὁ μισθὸς ὁ τούτων. Some render this as if it were, "your favours and his wages,—or bounty;" but τούτων seems to connect μισθὸς with χάριτες. Wolf somewhat artfully avoids the pronouns, so as to leave it ambiguous,—"gratiam consequantur et, quæ ex his rebus oritur, mercedem;" but in his commentary he very plainly gives his opinion that it is χάριτες παρ' ὑμῶν—ὁ μισθὸς παρὰ Φιλίππου, and that ὁ τούτων means διὰ τούτους τοὺς λόγους. Apud Reisk. Appar. Crit. i. 83.

[3] This is again the same sarcasm as at the beginning of the Speech,—τὰ γὲ ἀφ' ὑμῶν ἕτοιμα ὑπαρχόντα ὁρῶ—already noticed.

[4] This passage (particularly the close) has always appeared one of the most difficult in Demosthenes—not at all, as usual, from the words employed, but from the construction and sense,—namely, from "καὶ τὸ διαρπασθήσεται," to the end. As near as may be, this is literal—"and to prevent our property

so sorely distressed at the waste of our resources, which it is in your power to prevent and to punish; while Philip, plundering every part of Greece in succession,[1] and all manifestly to arm himself against you,[2] gives them no uneasiness at all.

Whence is it, after all, O men of Athens, that he is thus openly carrying on military operations, doing acts of violence, taking towns, and yet no one[3] of these creatures of his ever thinks of charging him with committing outrages, or even going to war at all, while the whole blame of beginning hostilities is cast upon those who are for resisting such violence, and against abandoning every thing to his mercy? I can tell you the reason of all this.—That indignation which you are likely to feel[4] when you suffer by the war, our accusers would fain turn off upon us who gave you the sound advice, in order that you may condemn us instead of punishing Philip, and that themselves may play the part of prosecutors against us, instead of paying the penalty of their own misconduct.

This it is that makes them refer to some among us as wishing for war; this is the real source of all the altercation. But I know full well that before a single vote for war had been given at Athens, Philip had both seized upon many of our possessions, and sent to Cardia the auxiliary force which is now there.[5] If indeed it is our pleasure to affect to believe[6] that he is not making war upon us, he would be the

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(treasure) being plundered by recommending a guard by which it may be saved, and not by departing from what is advantageous."

[1] Εφεξῆς,—"in its order."

[2] Here the καὶ ταῦτ' ἐφ' ὑμᾶς ἁρπάζων seems to defy translation.

[3] "No one" τούτων, *i. e.* probably of those who got their μισθὸς, their "hire," before mentioned.

[4] Leland here inserts a parenthesis, of which there is not a word in the Greek; but he takes it by some oversight from the Fourth Philippic,—unless indeed some MS. or edition may have already transferred it from thence. The words are ἀνάγκη γὰρ—ἀνάγκη πολλὰ λυπηρὰ ἐκ τοῦ πολέμου γίγνεσθαι. It must be observed, too, that Leland's translation is as indifferent as possible:—"It is necessary, absolutely necessary, that war should be attended, &c." is really not the meaning—but that "war is necessarily, or of necessity attended with," &c. In Allen's edition, this paragraph is also here.

[5] Νῦν with the πέπομφε, and after what precedes, must have the sense given in the text.

[6] Μὴ προσποιεῖσθαι πολεμεῖν αὐτὸν, seems an order of words that connects

most senseless of human beings to contradict us.—But after he shall have actually invaded us, what shall we say then? For he will still affirm that he is not making war upon us—no[1] more than, by his account, he was making war upon the Oreitans when his troops were in their country—nor on the Pheræans the moment before he stormed their walls—nor on the Olynthians, at first, and until he was at the head of an army within their territory;—and shall we still go on charging those with being the aggressors, who would only prevent aggression? Then there is nothing left for us but at once to be his slaves. Alternative[2] there is none between that and resistance, which we will not make, and repose, which we cannot have.

And indeed the perils to which you and other states are exposed are very different;[3] for it is not the conquest of this city that Philip aims at, but its utter destruction. He has long been well aware that you will not be his slaves, nor could if you would—for you have been habituated to command. And to give him embarrassment by seizing[4] on a critical juncture—*that* you can do better than all the world besides.

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the negative with the "pretending," and not with the "making war." But it must mean—προσποιεῖσθαι μὴ πολεμεῖν αὐτόν.

[1] This rendering is necessary to preserve the force and beauty of the original; which is not constructed so as to connect the three cases put by the predicate of Philip's "telling the parties," but by that of his "not making war." It is negative—οὐδὲ—and it is to be remarked how much greater the effect of this is, than if it had been put merely that "he told the Oreitans, and told the Pheræans, and told the Olynthians."

[2] Ἄλλο—μεταξύ—"other middle course." But can this be called "middle course" between the two things mentioned, and both of which are negatived? Or is it,—"There is no middle course" between being slaves, and one or other of the two things which are both out of the question? But the literal meaning is certainly that being slaves is a middle course, and the only one. Then, middle between what two others? "Alternative" seems therefore the fit word.

[3] Ὑπερ τῶν ἴσων is rendered by Wolf and others, *de iisdem rebus*. "Equality," however, as if "equal terms of danger," seems involved in the expression—though there is no material difference. Perhaps "unequal" renders it better.

[4] Ἂν καιρὸν λάβητε. Leland's "at an unfavourable juncture," is not so good as the literal sense, "if you take, or seize on, a critical juncture;" besides, unfavourable means rather the relation of the juncture to the party seizing it, which is contrary to the sense here. Unless Leland means a juncture unfavourable for Philip, the version is nonsense; the meaning clearly is, "if you have a favourable juncture," "if you have an opportunity."

Since then the struggle is for your existence, it behoves us to bear in mind, that they who have sold themselves to him, shall be holden in utter detestation, and suffer all extremities.[1]—For it is impossible, it is quite impossible, that you should overcome your enemy without the walls, until you have chastised the enemies within the walls who are devoted to him; and against whom if you are driven as upon rocks[2] standing in your course, you must inevitably be too late to cope with the others.

For how does it happen, think you, that he should be insulting you, (as I cannot for my part conceive but he is,) and already menacing you, while he is overcoming others by his kindness, if by nothing else? Just as he allured the Thessalians into their present servitude by loading them with favours; and no one can tell by how many gifts, Potidæa among the rest, he gained over the wretched Olynthians.—The Thebans he is now seducing, after delivering over to them Bœotia, and relieving them from a long[3] and burdensome warfare. Now while these states have obtained each some accession of territory, yet they have all either already had to undergo extremities known to every one, or, happen what may, they will assuredly have to undergo them.[4] But *you*—I say

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[1] Ἀποτυμπανίσαι—"utterly beat to death." The μισεῖν is so much less than "extreme abhorrence," that it comes strangely with this violent expression.

[2] Ὥσπερ προβόλοις προσπταίοντας. This is a figure which, however expressive, is for Demosthenes somewhat strong. Προβόλος is "a rock in the way of a surge and on which it beats." Leland's "strike on these, as so many obstacles," has all the violence of the figure—*i.e.* the striking upon enemies, without its picturesque effect. Francis is as bad as possible here,—"these quicksands upon which you strike, and upon which you are unavoidably shipwrecked,"—there being nothing like quicksands in the case, and nothing like striking on them if there were.

[3] Πολλοῦ. Wolf properly considers this epithet as applied to the *length* of the Phocian or Sacred war, and not to its *character*, as some understand it; πολλοῦ, says he, ἀντὶ τοῦ μακροῦ. Some MSS., however, omit the word altogether. It cannot mean "great" or "heavy;"—χαλεποῦ conveys that sufficiently.—Reisk. Appar. Crit. i. 83.

[4] Leland, gives this happily by a paraphrase; it is certainly not at all literal—but it brings out the meaning. They "are either involved in calamities known to the whole world, or wait with submission for the moment when such calamities are to fall upon them." It should have been "await the moment;" "wait for" implies a desire for their coming.

nothing of the losses you have already sustained—but how have *you* been over-reached in the very act of making peace! and of how much have you been stript! Has not Phocis been wrested from you? and Thermopylæ? and your settlements in Thrace? and Doriscus, Serrium, Cersobleptes himself? Nay, does not Philip now hold the capital of Cardia, and does he not avow it? Why then does he conduct himself in so different a fashion towards others and towards you? It is because this is the only country where men have full licence to plead the cause of the enemy, and can in perfect safety receive his pay, while they are harassing you whom he has been despoiling of your possessions.—It was not safe in Olynthus to plead the cause of Philip, while yet the bulk of the Olynthian people had not been won over[1] by the possession of Potidæa. It was not safe in Thessaly to plead the cause of Philip, while yet the Thessalian multitude had not been won over by his casting out their tyrants and restoring their Amphictyonic right. It was not safe in Thebes, before he had restored Bœotia and extirpated the Phocians.—But at Athens, after he has not only stript us of Amphipolis and the country of Cardia, but has fortified[2] Eubœa like a citadel to overawe

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[1] Συνεμπεπονθότων—a word of much force, and indicating being received into the fellowship of one Power despoiling another—(like the Jackal with the Lion). The repetition of the same words in this fine passage, and the pursuing the same plan in the structure of the sentences throughout, are to be noted.—Also the πολλῶν and the πλήθους,—though Leland drops these, and says merely "the Thessalians." Auger is to be admired, however, chiefly in contriving to leave out all mention of either the συνεμπεπονθότων, the πολλῶν, or the πλήθους. But the σὺν may also imply "gaining over with," or "as well as" the bribed (μισθωτοὶ) at Athens. Some MSS. have πολιτῶν for πολλῶν. Some too, and Hervagius follows these, have εὐπέπονθότος, without the σὺν, the second time it is used—and μηδὲν before it; but the bulk of the authority is the other way.—Reisk. Appar. Crit. ii. 220–242. Some too have οὐκ ἂν ἦν —"it would not have been." It is just possible that the πολλοὶ and πλῆθος may merely mean "people;" but the probability seems greatly in favour of a more intensive and specific meaning.

[2] Κατασκευακότος. Taylor gives this as the reading of his Aldine, instead of the present participle, which is in most editions; and the past certainly seems the right reading, both because it appears from the former passage that he had done the thing during the ten months of his absence from Macedon, and because of the καὶ νῦν παρόντος which follows.

you, and is now invading Byzantium too,—at Athens it is quite safe to plead Philip's cause![1] Hence it is that some of these advocates of his, from beggars have suddenly become rich, and from being nameless and obscure, are now eminent and distinguished, while you, on the contrary, from eminence have fallen into obscurity, and from affluence to destitution. For I certainly consider the real wealth of a state to consist in alliances—credit—public esteem; of all which you are destitute; and while you hold these in contempt and suffer them to be taken from you, Philip has become prosperous, and powerful, and terrible to all, Greek as well as Barbarian, and you desolate and low,—splendid, no doubt, in the unenvied[2] profusion of your merchandise, but in all the things really valuable to a state, ridiculously destitute.

But I perceive that some of our politicians by no means lay down the same rule for themselves and for you. They would have you remain quiet whatever wrongs are done to you; while they can never remain quiet themselves, though no one is wronging them at all. Then, whoever rises, is sure to taunt me with—"So you will not bring forward a proposition for war; you will not venture upon that, timid and spiritless as you are?"[3] For my part, self-confident,[4] and forward, and shameless I am not, and may I never be! Yet do I account myself by a great deal more courageous than those whose counsels are marked with such temerity. He, in truth, Athe-

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[1] Leland, who had appeared to see the fitness, because the effect, of retaining the same words throughout as in the Greek, *peccat ad extremum*—and drops them, changing the expression when he comes to the application to Athens—where retaining them was the most essential.

[2] Ἀφθονία, though generally used for "abundance," yet here probably retains its original sense. In the Fourth Philippic, however, the expression is εὐετηρία, (κατὰ τὴν ἀγορὰν) "exuberance," "plentifully supplied markets;" which repetition of the passage Leland seems to have had in his eye when he translated ὠνίων, "markets."

[3] Ἄτολμος καὶ μαλακὸς—"unenterprising and soft," literally; and perhaps that would be the best translation.

[4] Θρασύς. To be taken in a bad sense, but probably not in the worst. The Lexicographers make θάρσος, *fiducia, audacia*,—"self-confidence" or "boldness," the root; but why it should be the root, and not derived from θαῤῥέω—the origin, in all likelihood, of our word "dare,"—does not appear.

nians, who regardless[1] of the interests of the country, condemns, confiscates, rewards,[2] impeaches, by no means proves his courage in all this; for if he insures his own safety by such speeches and such counsels as are calculated to win your favour, he may be daring with very little[3] hazard. But he who for your good oftentimes thwarts your inclinations; who never speaks to gain your good graces, but consults your interests always; who,[4] should he recommend some course of policy in which fortune may baffle the calculations of reason, yet makes himself accountable for the event[5]—he is indeed courageous—an invaluable citizen he truly is;[6] not like those who to an ephemeral popularity have sacrificed the highest interests of their country—men whom I am so far from wishing to rival,[7] or from regarding as true patriots, that were I called upon to declare what services I had rendered our common country, although I have to tell, Athenians, of naval

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[1] Παριδὼν—"overlooking," "neglecting."

[2] Reiske refers from δίδωσι here to χαρίζεσθαι afterwards; but the common reading being such, he changes it to καταχαριζέσθαι, and says that it affords an explanation of δίδωσι. It rather seems as if δίδωσι explained χαρίζεσθαι. The simplicity and sincerity of this fine passage are quite moving.

[3] Ἀσφαλῶς. This is clearly the meaning. Wolf drops the word, or makes it intensive to θρασὺς—for his version is "*audax et confidens est.*" Hervagius has a comma after ἀσφαλῶς, disconnecting it with θρασὺς, which is plainly wrong. Leland merely says, "therefore he is daring."

[4] Commentators have often expressed surprise at this passage, as if it made the adoption of measures exposed to chance more than governed by design, a test of a statesman's capacity; whereas, choosing such as are under λογισμὸς, "reasoning," "calculation," is plainly the wiser course. But the meaning may merely be, that when, or in case he is compelled to adopt a policy more under the controul of fortune than prudence, he still takes the responsibility on himself. Perhaps καὶ should be read κἂν, "and if." In the great Oration, the same topic is dwelt upon, and in others.

[5] Literally, "makes himself accountable for both;" that is, both the goodness of the plan according to reasoning *a priori*, and the event with all the risks of fortune—both the design and the chances.

[6] The rhythm and inversion of the Greek are here beautiful. The force of the passage depends mainly on these—the diction, as regards the words themselves, being extremely simple—οὗτος ἐστ' ἀνδρεῖος, καὶ χρήσιμός γε πολίτης ὁ τοιοῦτος ἐστιν. The particle γε gives also much beauty to the simple diction.

[7] Ζηλοῦν may be "envy" as well as "emulate."

commands, and public shows, of supplies raised and of captives ransomed, and other passages of a like description,[1] to none of them all would I point but to this one thing, that my policy has never been like theirs. Able I may be, as well as others, to impeach, and distribute,[2] and proscribe,[3] and whatever else it is they are wont to do; yet on none of these grounds did I ever choose to take my place,[4] or rest my pretensions, either through avarice or ambition. I have persevered in holding that language which lowers me in your estimation as compared with others, yet which must greatly exalt you, so you will only listen to me. Thus much to have said, may perhaps not be deemed to be invidious. Nor do I conceive that I should be acting an honest part, were I to devise measures, which, while they raised me to the first rank in Athens, sank you to the lowest station among the Greeks. But the state ought to be exalted by the counsels of patriots, and it is the duty of us all to tender, not the most easy, but the most profitable advice. Towards the former, our nature is of itself but too prone; to enforce the latter, a patriot's lessons and eloquence are required.[5]

I not long[6] since heard some one talking as[7] if my advice

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[1] Φιλανθρωπίας. If the "such other" refers to the last antecedent, φιλανθρωπία is here "humanity;" but if to the whole enumeration, it must mean love of the community at large, *i. e.*, "public spirit."

[2] Χαρίζεσθαι may certainly mean "ingratiate" generally; but coupled with the peculiar marks of ingratiating here given, viz. τὸ κρίνειν and τὸ δημεύειν, it is plain we must take τὸ χαρίζεσθαι in its other sense, of "distributing" the property of the persons impeached and proscribed.

[3] The sense may be this: "I might possibly impeach as well as other people, and gain popularity, and bring forward proscriptions."

[4] Ἔταξα. In Leland—"a part I never assumed: my inclinations were averse." But the meaning of ἔταξα is, "placed myself upon," and προήχθην "pretended" "put my pretensions on."—The text is literal, and it is English. Leland's is neither.

[5] Leland gives nothing like the sense here—"not to be promoted but by the utmost efforts of a wise and faithful counsellor." In the speech there is neither "efforts" nor "utmost efforts," (unless προάγεσθαι—but that is limited to one thing), nor counsellor, nor wise, nor faithful—but there is "teaching" and "speaking," which are both omitted, λόγῳ—διδάσκοντα.

[6] Ἤδη requires this.

Τοιοῦτόν τι—"something to this effect"—"to some such purpose as this."

was always sound enough,[1] but words[2] were all I gave the state; whereas it wanted deeds and actions. Now upon this point I will tell you what I think, and without any reserve. I do not hold it to be the province of those who advise you, to do any act whatever beyond giving you sound counsel; and that this is a correct view of the subject, I think I shall easily shew. You remember how the celebrated Timotheus harangued you upon the necessity of succouring the Eubœans and saving them from the Theban yoke. "What?"[3] he said, "do you deliberate how to proceed and what to do, when the Thebans are actually in the Island? Men of Athens! will you not cover the sea with your ships? Will you not instantly arise and fly to the Piræus? Will you not draw down your vessels to the beach?"[4]—These were Timotheus' words; this was what you did; and from both concurring, the work was accomplished. But had he given, as indeed he did, the best of counsels; if you had remained immovable, giving ear to nothing that he said; would any of those things have been performed which were then done for the country? Impossible! And so it is with what I am now urging, and what others may urge. For deeds you must

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[1] Francis—"that I always speak extremely well." This is not the meaning at all. If λέγω τὰ βέλτιστα has anything to do with speaking, or words, it is "give fair words"—but the sense is "adverse"—or at least that the substance of the speech is good and sound. Francis refers it to the execution.

[2] In the Greek it is λέγω, then λόγοι. The necessary change of the word in the translation is here, as often happens, prejudicial.

[3] Εἰπέ μοι—perhaps "what?" is as literal as "Tell me," or "say."

[4] It is not so easy to see why the first question having been—"Will you not cover the sea with your ships?" the last should be, "Will you not launch your ships?" The difference of τριήρης and ναῦς will not explain this. Perhaps the difference alluded to is between ships already in service, and those not yet in use (or as we would say, in commission). Leland ingeniously has it —"Why are you not embarked?"—but first the tense is wrong; for as Reiske has well observed, though πορεύεσθε might be given in the present according to some MSS. καθέλξετε precludes this reading; and, secondly, the word is not at all "embark," but "launch," "draw down." In the First Philippic, where somewhat of the same idea occurs, and where "embark" is plainly meant, the word is οὐκ ἐμβησόμεθα.

rely on yourselves; looking[1] to statesmen only for the capacity[2] to give you salutary counsels.

And now, after summing up in a word what I have to urge, I have done. I say you should levy the necessary supplies, should maintain the army on its necessary establishment—correcting whatever abuses may be found to exist, but not disbanding it altogether upon the first clamour that is raised—should send ambassadors wherever they can be useful in informing,[3] admonishing, or anywhere furthering the interests of this country. But you should, beside all this, bring the men to punishment whose administration has been stained with corruption, and consign them to abhorrence in all times and all places, to the end that those whose conduct has been temperate[4] and pure, may be shewn to have consulted at once their own interests and yours.[5] If such shall be your course, and you no longer neglect your most important concerns, it may be that our affairs shall take a better turn. But if you sit down inactive, and confin-

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[1] Ζητεῖτε, "look for," "seek for;" but in English this applies rather to what must come from others than from themselves; and this renders a change of the word necessary.

[2] Ἐπιστήμη—Wolf, following some MSS., is for leaving out this word, and inserting τό. The word must be admitted not to add much to the passage, and not to be in the manner of Demosthenes.

[3] "Reform," in Leland, must surely be a misprint for "inform," the Greek being διδάξοντας. Francis has "notify;" it may mean so, or "warn," unless νουθετήσοντας means this, rather than "remonstrate," which both Leland and Francis give; certainly it seems like "suggest," "to put into one's mind," or "to remind;" but it is also used for "rebuke;" or it may even be "remonstrate."

[4] Μέτριοι, "moderate," "measured;" but it also means "conformable to duty," and therefore "upright." Δικαίως which follows, however, is plainly "upright" or "pure," in opposition to "corrupt," and therefore μέτριοι may be used to distinguish those who did not take the extravagant courses, ἀμετρία, which at Athens were often mixed with corruption.

[5] Most translations join the τοῖς ἄλλοις with εὖ βεβουλεῖσθαι,—which is not quite certain: it may be "in order to shew them and all others." Wolf seems to join τοῖς ἄλλοις in this manner with δοκῶσι. But the doubt is, if εὖ and βουλεύομαι, there being no word εὐβουλεύομαι, be sufficient to denote "giving sound or honest advice," without a pronoun.

ing your exertions[1] to acclamations and applause, shrink back[2] the moment anything is required to be done, I can conceive no eloquence[3] which, in the absence of every necessary effort on your part, will have the power to save the country.

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[1] Ἄχρι τοῦ, κ. τ. λ. affords a happy instance of the full meaning being brought out by a choice of verbs and adverbs, without mentioning the *predicate*. Wolf, in his commentary, gives an admirable translation—"*usque ad applausum et laudationem rebus intenti.*" Apud Reiske, Ap. Crit. i. 84. The force of σπουδάζοντες is here excellently preserved. In the translation he does not give so good a commentary—"*hactenus duntaxat ut plaudatis et laudetis orationem studentes.*"

[2] Ἀναδυόμενοι. *Vide* former note, (p. 484.) Wolf renders it here by "tergiversemini;" which does not give the meaning. It is escape from a word.

[3] Leland—"All the wisdom in the world;" but λόγον is here put in opposition to ποιεῖν, and the applause referred to before, is plainly meant of speeches. Leland's turn of the negative, is, however, happy; and the passage may be rendered, "then all the eloquence in the world (or all the speeches) will fail to save the country,"—but the version in the text gives the precise meaning of the Greek.

ORATION

FOR THE

INDEPENDENCE OF RHODES.

This admirable Translation, with the Notes, has been kindly communicated by THE HON. MR. JUSTICE WILLIAMS.

ORATION

FOR THE

INDEPENDENCE OF RHODES.

INTRODUCTION.

In the third year of the 105th Olympiad, the islands of Cos, Chios, and Rhodes, revolted against the power of Athens; and the latter fitted out a great expedition for their reduction. This failed owing to the jealousies and intrigues of the commanders employed; and it became necessary to allow the independence of those Colonies. They had, however, only changed masters; for Mausolus, whose assistance had enabled them to rebel, soon reduced them to subjection. He was succeeded by his wife, Artemisia, who was also his sister, according to the Carian usage. She received succours from the Persian king to maintain her dominion, and had a garrison of his troops in the citadel of Rhodes. The Rhodians, thus oppressed, appealed for help to the Athenians, whom Demosthenes endeavoured to persuade, in the following beautiful Oration, that it was their duty and their interest to grant the request, without regarding the past conduct of the Rhodians.

ORATION.

I AM of opinion, O men of Athens, that, as you are deliberating upon affairs of such importance, you should allow[1] freedom of speech to every man who offers his advice. For my own part, I never considered it difficult to inform you of what is best to be done,—for, to speak plainly, you all seem to know that already,—but to prevail upon you to do it; forasmuch as, when any thing is resolved upon and decreed, it is just as far from being done as it was before the resolution.

There is one thing, however, for which I think you should be grateful to the gods,—that those who, through their own insolence, were at war with you at no distant time, have now their only hopes of safety in you. In such a crisis there is

[1] Allen seems to think that there is a real difficulty in this commencement. As the assemblies were held merely for discussion of something or other, what else was to be done but to hear, &c.? He then enters into a long note to explain who might address the assembly and who not, *without looking under his feet.* Is not the meaning, obviously, that the Athenians were become "formidable in their assemblies," and no where else,—that "their ears were spoiled,"—that they were more angry with those who shewed that things were wrong, than with those who excused it? Did not Demosthenes *twice* at least, in the Περὶ Συντάξεως, pray not to be interrupted? If the allusion be to this disposition of the Athenians, there is no difficulty at all; if this be not the solution there is difficulty enough.

just cause for rejoicing; for, if you shall decide in a manner worthy of it, you will have the fortune of putting down by facts the slanders of our country's defamers, and will add[1] to her just renown. For the Chians, and Byzantines, and Rhodians, charged us with having evil designs against them, and on this pretence, jointly raised against us this last war. It will appear, however, that Mausolus, who was the manager and adviser of the whole, calling himself the friend of the Rhodians, robbed them of their liberties; that the Chians and Byzantines, who made a shew of their being allies, gave them no help in their misfortunes; but that you, whom they feared, have been of all mankind their only deliverers. The consequence of this being generally perceived will be, that you will cause the people in every state to consider your friendship a symbol of their safety; and no greater good can happen to you than to obtain, from all, their cheerful and unsuspecting good-will.

I am surprised, when I observe the same persons advising the state to act in opposition to the King in behalf of the Ægyptians, but dreading this same king when the question is about interfering on behalf of the Rhodian people; though that the latter are Greeks all mankind know, but the former a part of the King's dominions.

I presume some of you may remember, that when you were consulting about Persian affairs, I was the first to contend (I believe alone, certainly with not more than one other) that you would act wisely in not avowing the cause of your armament to be hostility against the King, but to be prepared against existing enemies, and to repel the King also, if he should make any attack upon you. Nor was this my recommendation merely, of which you did not approve, but you were yourselves of the same opinion. What I have now to say, therefore, is but a sequel to my speech on that occasion. Were I now with the King, and he should make me his adviser, I should recommend the very same course to him as I do to you,—to go to war for his own possessions, if any of the Greeks should attempt to oppose him, but where he had no right, to assert no claim of dominion. If then, you are fully

[1] The "add" is an addition perhaps excusable; if not, "with fair fame" is literal.

resolved, O men of Athens, to abandon to him whatever the King may have become master of by surprising or deceiving certain individuals in different states, you have not resolved well in my opinion. But if you think that you ought to fight, should that be necessary, and to endure every extremity for the cause of justice; in the first place, you will have the less reason to resort to the last extremity, in proportion as you shall be so minded, and in the next, you will appear to entertain sentiments worthy of yourselves.

Now to satisfy you[1] that, in recommending you to set the Rhodians free, I am saying nothing new, and that you, if you follow my advice, will be doing nothing new, I will briefly remind you of what has happened and that too with advantage to the country. You heretofore, O men of Athens, sent out Timotheus to assist Ariobarzanes, adding a condition to the decree, that he should violate no existing treaty with the King. Accordingly, finding that Ariobarzanes had openly declared against the king, and that Samos was forcibly held by Cyprothemis, whom Tigranes the king's governor had set up, he declined assisting Ariobarzanes, but sat[2] down before Samos, assisted the people, and gave them their liberty;—and up to this hour you have had no war on this account; for nobody will fight in the same manner for unjust acquisition, as for rightful possession. All mankind struggle to the uttermost against attacks upon their own; not so do they struggle to obtain what does not belong to them. That they may desire to have, if others will allow them, but should they be prevented, they consider that no injustice has been done by their opponents.

Moreover, my opinion is that Artemisia will not oppose this enterprise,[3] if we are only intent upon it; and having heard my reasons briefly you shall judge whether I am right or not. I think that, whilst the King was accomplishing all his objects in Ægypt, Artemisia would strive to the uttermost to obtain

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[1] "To satisfy you,"—not in the original, but seems implied.

[2] The change from the participle, in accommodation to our idiom is, perhaps, necessary;—"sitting down," is equally easy.

[3] Allen translates this, "agendi consuetudini." But what has "course of action," if *consuetudini* means anything, to do with a particular act, or enterprise?

Rhodes for him,—not out of any good will towards him, but from a desire, whilst he remains in her neighbourhood, to confer a great favour upon him, that he may receive her as cordially as possible. But now as he has met with the ill success which we have heard of, and failed in his objects, she will think, as the fact is, that this island can, for the present, be of no advantage to the King, while it is a fortress[1] overlooking her own dominions to prevent any movement on her part. Insomuch, that, provided she may not appear plainly to give it up to you, I think she would prefer your having it to his getting it into his possession. I think, at the same time, that she will not assist[2] you, or that, if she should, it will be feebly and imperfectly. As for the King,[3] I protest I for one am not able to say what he will do; but that it nearly concerns you now to have it ascertained whether he does make any claim to the territory[4] of Rhodes or not, I do most positively assert; for if he does, it will not be for the Rhodians only that you must consult, but for yourselves and all the Greeks.

If the Rhodians, now in power in the city, had obtained it by their own means, still I would not have advised you to make any terms with them, not if they made you all the promises in the world. For I observe that they at first took to their aid some of the citizens to overthrow the popular government; and, when they had effected it, again expelled them. I, therefore, can never expect that they who have shewn themselves faithless to both parties, will prove steadfast allies to you. Nor should I ever have said what

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[1] Allen translates, *arcem regni sui*;—what then becomes of the *ἐπί*?

[2] Allen translates, *adjuturam*, without saying "whom;" which is, in effect, saying nothing. It is presumed, as it had been before said that she wishes the Athenians to have it, it must mean help *them*. It might mean, "help the Oligarchy in Rhodes,"—and that shews the fault in the translation above noted.

[3] Ἐπεί, "since," "forasmuch as," &c. seems out of place, except something be implied, such as, "I don't like to be very positive," or "I do not like to say much about him," &c. "since," &c., an elliptic mode of expression very common with Demosthenes;—(*e. g.*) *γένοιτο γὰρ ἄν τι καινότερον, κ.τ.λ.* Phil. ii.

[4] It has been noticed that *πόλις* is always used for the whole of the Athenian territory—which it well might. In the case of Rhodes, we might have expected, perhaps, it would have been otherwise.

I have now been saying, had I thought the measure of advantage only to the Rhodians; for I am no public guest[1] of this people, nor is any of them a private friend of mine. Nay, if both these circumstances had existed, I never should have said it, if I did not think it for your benefit. As to the Rhodians, (if such language be allowable to an advocate for their safety) I rejoice at what has happened; for begrudging you, as they did, your undoubted rights, they lost their own freedom; and when it was open to them to have formed an alliance on equal terms with you,—Greeks and their betters,—they are content to be enslaved by barbarians and slaves whom they have admitted into their fortresses. I had almost said, if you should be willing to assist them, that what has happened has been of use to them; for, while their fortune continued to prosper, I know not that they would ever have been in their proper senses, Rhodians as they are. But now, having been taught by experience that folly is the cause of much mischief to many,[2] perhaps, if they should succeed,[3] they may be a little more sober-minded in future. And this I certainly think no small gain to them. I say, that you ought to try to save these people such as they are,[4] and not to bear malice, remembering that you also have in many instances been deceived by treacherous men, and yet you would not say that you ought to suffer for any of those misdoings.

Consider this, also, O men of Athens, that you have urged many wars both against Democracies and Oligarchies,—and this you, of course, are aware of. But the causes of war against each, perhaps, none of you does attend to. What then are

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[1] Can this be more nearly appreciated? It is presumed it means, to be entertained, if a visitant, by the state.—ξένος, of course, does not literally mean "friend;" but neither "host" nor "guest" seems, with us, to be enough for the meaning.

[2] It is presumed that πολλοῖς is simply meant to add to the quantity of the remark,—to "many," and not "the many," as contrasted with ὀλίγοι, or "Oligarchy."

[3] Εἰ τύχοιεν—not noticed by Allen. Must it not mean, "if they succeed in getting your help," "if they be fortunate enough"? &c.

[4] "Such as they are," added; but it is plain that ἄνδρας is disparaging, and "men," or "people" alone would not give that idea. The whole Speech says nothing in favour of them as a people, but the contrary. "It is the cause, it is the cause," &c.

those causes? Why, against popular governments,—on account of some mutual complaints which could not publicly be disposed of, or some portion of territory, or line of boundary, or honour, or ascendency: But against Oligarchies—for none of these, for the principle of your government, and for freedom. Insomuch, that I should have no hesitation in saying, I consider it better for you that all the dominions in Greece should be at war with you, than the Oligarchies should be your friends. For with a people in the possession of liberty, I consider that you would have no difficulty in making peace whenever it suits you; but with Oligarchies I do not think even friends secure. For it is not possible that the few[1] should be well disposed to the many, or those who thirst for dominion towards men who have resolved to live in the enjoyment of equal rights.

I am astonished that none of you thinks, when the Chians and the Mitylenæans, and now the Rhodians, are under Oligarchies,—all mankind, I had almost said, being subjected to this servitude,—that there is a certain degree of danger to your own constitution also; nor consider this, that if Oligarchies are established every where, they will not allow your republic to stand. For they know well that none else can bring back the state of things to freedom, and they will wish to destroy those from whom they expect mischief to befal them. All other aggressors you ought to consider enemies, on account of the particular grievance; but I advise you to hold those who destroy free governments[2] and change them into Oligarchies, as the common enemies of all who love liberty. Moreover it is but just, O men of Athens, that you who are free, should appear to entertain the same sentiments respecting an unfortunate people who have lost their freedom, which you would expect others to entertain respecting you, if (which Heaven avert!) any such calamity should ever befal you. Nor, if any man should suggest that the Rhodians have but met with their deserts, is this a fit season

[1] Whether "the few," quite expresses what the ὀλίγοι means, may perhaps be doubtful. It certainly does not, if by the expression is meant that they are actually in power;—but how get nearer?

[2] From its opposition to Oligarchy here, "free government" seems to be implied, whatever be the general meaning of πολιτεία.

to triumph[1] over them. For the prosperous ought ever to be seen consulting the interests of the distressed, seeing no man knows what the morrow may bring forth to himself.

I am in the habit of hearing it frequently asserted amongst you in this place, that when our country was unfortunate, certain states of Greece agreed[2] in advising that it should be saved; of whom, I will, for the present, only make a short mention of the Argives.[3] For I should not be willing that you, who have the reputation of always saving the distressed should appear worse than the Argives in this particular,—who, with a territory bordering upon that of Sparta, and seeing the Lacedæmonians lording it both by land and sea, were not deterred from shewing themselves friendly towards you. Nay more, they even came to a Decree, as we are told, to hold their ambassadors, who came from Lacedæmon to demand certain of your exiles, enemies, if they did not quit the territory before the sun set. Is it not disgraceful then, O men of Athens, if the people of Argos feared not the dominion of the Lacedæmonians in those times, nor their power, that you, who are Athenians, should fear a Barbarian, and that too, a woman? Besides, the Argives had it in their power to relate that they had been frequently vanquished by the Lacedæmonians; but you have conquered the King often, and have been worsted, not even once, either by the slaves of the King, or by himself. For if, indeed, the King has anywhere had an advantage over this country, that advantage he

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1 "To be pleased at," "to rejoice at," &c. literally. There is something in the tone of this passage, not unlike one (on a very different subject certainly) in Terence, much admired; where Thais says to Chærea, that if others blamed her, &c. *he* should not do it,—"at tu indignus qui faceres tamen." Eun. Act v. Sc. 2.

2 Can this mean more than "took counsel together?" &c. It can hardly imply any act, which, perhaps, "combine," "conspire," &c. do.

3 Mention is made of another, the Phocians, in a vehement passage of the Περὶ Παραπρεσβείας, where he describes the horrible nature of their destruction; and then turns upon Æschines, that they gave τὴν σώζουσαν ψῆφον. They did not wish Greece to be one-eyed, ἑτερόφθαλμον τὴν Ἑλλάδα. A translation of this passage is attempted in the Edinburgh Review of a Rectorial Speech at Glasgow in 1825.

has gained by bringing over to him with bribes, the most worthless of the Greeks, and traitors to them,—or, no how else; nor did even this profit him. For you will find that, often as he had weakened this country by means of the Lacedæmonians, he himself was in danger of losing his kingdom in his contest with Clearchus and Cyrus. So then he has never overcome you in open warfare, nor have his wiles availed him anything.

I observe that some among you are in the habit of treating Philip with contempt, as wholly beneath your notice, but dreading the King as a formidable enemy, with whomsoever he may contend. If, however, you will not repel the aggressions of the one, because he is an unworthy antagonist, and will yield every thing to the other, because he is formidable, —against whom, O men of Athens, will you ever take up arms?

There are, amongst you, those who are most powerful in maintaining the rights of others against you; to whom I would give but a single piece of advice—Let them learn how to defend your rights against others, that they may first appear to do what is right. Since, surely, it is absurd for a person,[1] himself not doing his duty, to pretend to read you lectures upon yours. For it is not right that a citizen of yours should get up speeches against you,[2] and none for you. And so I entreat you, consider what is the cause that nobody is found at Byzantium to instruct them not to seize upon Chalcedon, now a possession of the King's, and which formerly was yours, but in no respect belongs to them? Or not to make Selymbria, once a city in alliance with yours, tributary to them, or[3] dismember their country, against all oaths and

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[1] The only recommendation of "person" is that it is of both genders, like *ἄνθρωπος*.

[2] Literally "fight;" the reflective sense of the middle verb, "draw *yourselves* up in battle array." As in the memorable Oath passage, *οὐ μὰ τοὺς ἐν Μαραθῶνι, . . . καὶ τοὺς ἐν Πλαταιαῖς παραταξαμένους*, "who fought," &c.

[3] *Βυζαντίους*, or *Βυζάντιον*, the common reading, seems inserted to prevent the necessity of recurring to *ἐκείνους*, with which it is put in apposition—the sentence being complete without it. The negative contained in the *μηδὲ*, it is presumed, extends to the *ὁρίζειν*, which Allen construes *limites constituant*.

treaties, by which they are declared to be independent? None has been found to teach[1] Mausolus whilst living, or Artemisia, since his death, not to seize upon Cos and Rhodes, and many other Grecian cities, which the King, their master, had by treaties ceded to the Greeks, and for which the Greeks of those times endured many perilous[2] and glorious struggles. Or if both have such teachers, at least it appears that nobody is persuaded.

I am clearly of opinion that it is just to restore the Rhodian commonwealth; but further, even if it were not just, when I observe what the Rhodians are doing, I cannot avoid counselling you to restore their state. Wherefore? Why, because, if all were bent on acting justly, for you alone, O men of Athens, to hold back would be disgraceful. But when all the rest of mankind are putting themselves in a condition to commit some "profitable wrong," for you alone to make a parade of right, and even to avail yourselves of circumstances, I consider not justice but imbecility. For I observe that all people estimate right according to actually existing might; and I can mention an instance of this familiar to you all. There are two treaties made by the Greeks with the King, that made by this country, which all applaud, and that made by the Lacedæmonians, which, certainly, all condemn. And in these treaties rights are not laid down alike to both sets of persons. The laws, indeed, do give, alike to the weak and the powerful, a common and equal participation of rights in the disputes of

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This will do well enough if it needs must be taken in *a bad sense*. But suppose they marked the boundaries right, where is the grievance? Whatever may be the meaning of the word generally, the passage seems to shew that here it must be, "mark out *to occupy*, against oaths," &c.

[1] The teaching is applied to Artemisia only, but it seems necessarily implied as to Mausolus. The interrogatory is here dropped, as the editions have it so; but it may be doubtful, perhaps, whether it ought not to be continued.

[2] If κινδύνους must mean "danger," ἐποιήσαντο will not do in its ordinary sense, "make." That it does, generally, so mean, if not always, is clear. Κίνδυνον ἀράμενοι, the words just before *the Oath*; and in the same Oration, there is, "the state having never chosen ἀσφάλειαν ἄδοξον μᾶλλον, ἢ τὸν ὑπὲρ τῶν καλῶν κίνδυνον," "danger," and nothing else. This is the reason for "endured."

citizens with each other in each particular state. But in public rights, the conquerors lay down the law to the vanquished. Since then it is for you both to will and to do what is just, what you have to consider is how you may be able to accomplish both. And you will be able, if once you shall be considered as the common champions of the general freedom.

It is easy to perceive, as it seems to me, why you find it very difficult to act as you ought. For all the rest of mankind have one contest only,—with their open enemies;—and if they subdue them, there is nothing to baulk them in the full enjoyment of their success. But you, O men of Athens, have two difficulties, one the same which others have,—and another, in addition, earlier and more arduous. For you, in your councils, must overcome those who have chosen to act in opposition to the country. Since then, on account of them, nothing that is desirable can be obtained without a struggle, it may well happen that you should fail in many of your attempts. Now, that so many should fearlessly adopt this line of policy, perhaps the benefits received from those who bribe them may chiefly be the cause; not but that you also[1] may be justly blamed. For you ought, O men of Athens, to entertain the same opinion respecting a position in politics, which you do respecting a position in the field. And what is that? Why, you think that the man who deserts the station appointed by his general, ought to be disgraced, and should forfeit his rights as a citizen. So ought you to disgrace those who, deserting the line of policy handed down by our ancestors, act as if they were living under an oligarchy, by driving them from your councils. As it is, do you esteem those the most faithful of your allies who have sworn to have the same friends and enemies as yourselves?—and do you also consider those public men[2] most trust-worthy, who, you certainly know, have espoused the cause of the enemies of their country?

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[1] The change to "may be blamed," instead of "any one," &c., perhaps, hardly deserves notice, except for the purpose of remarking that even that change is not desirable, and that where there is a *lumping* departure, as in what is called a *free translation*, it is almost universally resorted to because the text is not understood.

[2] Allen construes it "*magistratus*." But can it possibly mean the Archons, Prytanes, Proedri, &c. people with duties fixed by law? Were not these as far

Perhaps, however, it may not be difficult to discover wherewithal to charge them, or to blame the rest of you; but that the labour is to find, by what advice, or by what course of action that which is now wrong may be set right. Perhaps, also, the present is not the time to treat of everything. But if you will sustain what you have previously resolved upon, by some corresponding measure, step by step our affairs may eventually become better for the future. My opinion then is—that you should take up this business in time,[1] manfully; bearing in mind that you rejoice to hear when any praise your ancestors, and go through their exploits, and tell of their trophies. Think then that those ancestors raised these trophies, not that you might gaze[2] upon them with unavailing admiration, but that you might imitate the virtues of those who set them up.

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removed from the slippery heights of politics as the Mayors of our Corporate towns? Must it not refer to "*οἱ λέγοντες*,"—the "*ῥήτορες ἡγεμόνες*,"—the Aristodemuses, &c.?

[1] Whether this gets near enough to *ἀντιλαμβάνεσθαι* may be questioned; but a difficulty is felt in getting nearer.

[2] Literally, "looking at, might wonder at," "admire," &c.

PERORATION

OF THE

SECOND PHILIPPIC OF CICERO

AGAINST

M. ANTONY.

PERORATION.

—And you are strenuous in commemorating Cæsar? in professing your love for him when dead? What higher honour did he ever reach than to have a pedestal, a shrine, a temple, a priest? As, then, Jupiter, as Mars, as Romulus, so the god Julius has his Priest,—and that Priest is M. Antony! Wherefore do you pause? Why are you not ordained? Fix your day,—see for some one to consecrate you,—we are colleagues, —that no one will question. Detested wretch! whether you play the minister of the living tyrant, or the priest of the dead! I would ask, too, if you are aware what day this is, —if you don't know that yesterday was the fourth of the Roman games in the Circus? that you yourself proposed a law for setting apart the fifth day to the worship of Cæsar? Then why are we not all in our sacramental robes? Why suffer the honours decreed to the new God by your law to be withheld? Have you permitted the day to be desecrated by having prayers and yet witholding pedestals? Either let the worship of your god be abolished at once, or let it be observed throughout.

You will ask if I desire to see his pedestal, his temple, his priest. For my part I desire nothing of the kind. But you—you who are the advocate of Cæsar—what have you to

say for defending some things and taking no care of others? unless peradventure you may be pleased to confess that the rule of your conduct is your own interest, not his dignity? What answer, then, do you make? I wait upon your eloquence;—I knew your grandfather to be a great orator, and yourself to be fluent of speech;—he, indeed, never harangued naked—your person we have seen displayed unadorned in public debate. Will you make any reply to these things, or will you dare to utter at all? What, in so long a speech as I have now been making, will you find that you have the boldness even to think you can answer?

But let us pass over former times and come to the present. This one day—this blessed individual day—I say, this very point of time in which I am speaking—defend it if you can! Why is the Forum hedged in with armed troops? Why stand your satellites listening to me sword in hand? Why are the gates of the Temple of Peace not flung open? Why have you marched into the town, men of all nations,—but chiefly barbarous nations,—savages from Ityræa, armed with their slings? You pretend that it is all to protect your person. Is it not better far to die a thousand deaths, than be unable to live in one's own country without guards of armed men? But trust me, there is no safety in defences like these. We must be fenced round by the affections and the good will of our countrymen, not by their arms, if we would be secure. The Roman people will force away, they will wrench from your grasp, these arms,—I pray it may be done without peril to us!—But in what way soever you may deal with us, believe me, while your conduct is framed upon your present counsels, your career must be short; for that consort of yours who is so very little avaricious, who has already been twice a widow, and whom I will allude to without offence, too long owes to the state the enjoyment of a third jointure. The Roman people have those to whom the helm of the state may be entrusted. Wheresoever they are, there is the safeguard of the commonwealth; or rather the commonwealth itself has not yet recovered those whom as yet she has only avenged. The country certainly possesses illustrious youths ready for her defence. Consulting their ease only, they may quit us for a season if they will—yet shall they be recalled

by the public voice. The name of peace is delightful, and the reality is precious; but between peace and slavery there is a wide difference. Peace is tranquil freedom,—slavery, of all ills the consummation, to be resisted not only by war but to the death.

But if those great[1] liberators of their country have thus removed themselves from our sight, yet have they left us the example of their achievements. What none before them had done, they did. Brutus levied war against Tarquin, a king in days when it was lawful for Rome to have kings. Cassius, Mælius, Manlius, all perished because they were suspected of affecting kingly power. But Brutus[2] and his coadjutors took arms not against one who was aiming at sovereignty, but against one already enthroned; an exploit not only illustrious and divine in itself, but worthy of all imitation, and such as covers the actors with a glory which seems to fill the very heavens. For although there was an abundant reward in the mere consciousness of the prodigious deed, still I cannot consider that any mortal needs contemn the earning of immortal fame.

Look back, then, M. Antony, on that day when you abolished the Dictatorship; set before your eyes the delight of the Senate and People of Rome; contrast it with the traffic[3] you and your followers are now engaged in—then you will be sensible of the vast difference between glory and gain. Yet as some, stricken with a morbid affection, an obtuseness of the senses, are unable to taste the flavour of their food, so profligate, rapacious, desperate men, lose the relish of true fame. But if the glory of great actions has no charms for you, cannot even fear deter you from wicked deeds? You have no apprehension of criminal prosecutions—be it so; if this arises from conscious innocence, I commend it; but if it

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[1] Some little addition seems quite necessary to bring out the sense: *abstulerent se ipsos* plainly indicates that he connects the removal of the liberators with the immediate antecedent *morte repellendum;* but these words seem hardly enough if simply translated, without this or some such addition to bring out the connexion.

[2] *Hi primi*,—we know nothing of them, except that Brutus was joined by many.

[3] In some editions and MSS. it is *nummatione;* in others better, *nundinatione.*

proceeds from your reliance upon mere force, do you not perceive what it is that awaits him who has thus overcome the terrors of the law?

But if you have no dread of brave men and patriotic citizens, because your person is protected from them by your satellites, believe me your own partisans will not bear with you much longer; and what kind of life is his whose days and nights are distracted with the fear of his own followers? Unless, indeed, you have bound them to you by greater obligations than those by which Cæsar had attached some of the very men who put him to death; or that you can in any one respect be compared with him. In him there was genius, judgment, memory, learning,[1] circumspection,[1] reflection, application. His exploits in war, how mischievous soever to his country, were yet transcendent. Bent for years upon obtaining supreme power, he had accomplished his object with vast labour, through countless perils. By his munificence, by public works, by largesses, by hospitality, he had won over the thoughtless multitude; he had attached his followers by his generosity, his adversaries[2] by his specious clemency. In a word, he had introduced into a free state, partly through fear of him, partly through tolerance of him, a familiarity with slavery.

With that great man I may compare you as regards the lust of power; in no other thing can you be in any manner of way likened to him. But out of a thousand ills which he forced[3] into the constitution of our Commonwealth, this one good has come, that the Roman people have now learnt how far each person is to be trusted, to whom they may commit themselves, against whom they must be on their guard. Do these things never pass through your mind? Do you not comprehend that it suffices for brave men to have

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[1] In some MSS., instead of *literæ, cura*, it is *literatura*. This, however, is hardly a Ciceronian phrase, unless in his critical or philosophical treatises.

[2] Devinxerat is applied both to the *suos* and *adversarios*. In English it would have been almost inevitable to change the word, and make it "attached his friends, and disarmed his enemies;" but perhaps "attaching" is stronger, as applied to enemies also.

[3] *Inusta*, "burnt in."

learnt how beautiful the deed, how precious the service,[1] how glorious the fame of extirpating a tyrant? When mankind could not endure Cæsar, will they bear thee? Henceforward, trust me, they will flock emulously to this work, nor wait for the lingering opportunity.

Regard the Commonwealth for a moment, M. Antony, I do beseech you. Think of the race you are sprung from, not of the generation you live with. Be on what terms you please with me; but return into favour with your country. That, however, is your own affair. I will declare my course. Young I stood by the country—old I will not desert her. I defied the arms of Catiline—I will not tremble at yours! Nay, I should cheerfully fling myself into the gulf, if my death could restore the public freedom, and the sufferings of the Roman people could thus be exasperated at once to the crisis which has been so long coming on! For, truly, if it is well nigh twenty years since I denied, in this very temple, that death ever could come before its time to a man of consular rank, how much more truly may I say so, now in my old age? To me, Senators, death is even desirable, having lived to finish all that I had undertaken to achieve. For two things only I feel anxious; the one, that my eyes may close upon the liberties of Rome—a greater boon than this heaven has not to bestow; the other, that the fate may befal every one which his conduct to his country has earned.

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[1] *Beneficio gratum* may mean—"fit gratitude for the benefits received from the country;" if so, the words may be rendered—"how dutiful the service," or "how appropriate;" but I prefer the sense of the text.

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